

EXHIBIT C (PART 1)

THE M/V NORASIA ALYA

MICHAEL STEPSKI

November 9, 2006

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(1)
 (2) UNITED STATES DISTRICT COURT
 SOUTHERN DISTRICT OF NEW YORK

(3)
 MICHAEL STEPSKI, KIRSTEN STEPSKI, Wife, :
 (4) GEAL RODERICK and BENJAMIN SCHÖBER, :
 (5) Plaintiffs, :

(6) -against- Index No. :
 (7) :06 CV 01694
 The M/V NORASIA ALYA, her owners, (CM)
 (8) operators, etc., and MS "ALENA" :
 SCHIFFAHRTSGESELLSCHAFT mbH & CO.
 (9) KG, PETER DOEHLE SCHIFFAHRTS-KG, :
 (10) Defendants.

(11)
 (12)
 (13) DEPOSITION of MICHAEL A. STEPSKI, taken by
 (14) Defendants at the offices of Messrs. Blank Rome, LLP,
 (15) The Chrysler Building, 405 Lexington Avenue, New York,
 (16) New York 10174-0208, on Thursday, November 9, 2006,
 (17) commencing at 10:25 o'clock a.m., before Annette
 (18) Forbes, a Certified Shorthand (Stenotype) Reporter and
 (19) Notary Public within and for the State of New York.

(20)
 (21)
 (22)
 (23)
 (24)
 (25)

(1)
 (2) APPEARANCES:

(3)
 THOMAS H. HEALEY, ESQ.
 (4) Attorney for Plaintiffs
 17 Battery Place, Suite 605
 (5) New York, New York 10004

(6)
 Messrs. STEVENS, HARRIS, GUERNSEY
 & QUILLIAM, P.C.
 (8) Attorneys for Plaintiffs
 351 Main Street

(9) Niantic, Connecticut 06357
 (10) BY: RONALD F. STEVENS, Esq., of Counsel

(11)
 (12) Messrs. BLANK ROME, LLP
 Attorneys for Defendants
 (13) The Chrysler Building
 405 Lexington Avenue
 (14) New York, New York 10174-0208

(15) BY: RICHARD V. SINGLETON, Esq., of Counsel
 ALAN M. WEIGEL, Esq., of Counsel

(16)
 (17) Messrs. FREEHILL, HOGAN & MAHAR, LLP
 Attorneys for Defendants
 (18) 80 Pine Street
 New York, New York 10005

(19) BY: MICHAEL E. UNGER, Esq., of Counsel

(20)
 (21) ALSO PRESENT.

(22) Kirsten Stepski
 (23) Geal Roderick

(24)
 (25)

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(1) **Stepski**
(2) **MICHAEL STEPSKI**, called as
(3) a witness, having been first duly sworn by
(4) Annette Forbes, a Notary Public within and
(5) for the State of New York, was examined and
(6) testified as follows:

(7) **DIRECT EXAMINATION**
(8) **BY MR. SINGLETON:**

(9) **Q:** Would you state your full name for
(10) the record, please?

(11) **A:** Michael Alexander Stepski.

(12) **Q:** What is your residence address,
(13) Mr. Stepski?

(14) **A:** 140 Four Mile River Road, Old Lyme,
(15) Connecticut 06371.

(16) **Q:** How long have you lived there?

(17) **A:** About two years.

(18) **Q:** Where did you live before that?

(19) **A:** Ledyard, condominium in Ledyard, 1J
(20) Lakeside Drive.

(21) **MR. HEALEY:** Off the record.

(22) (Discussion off the record.)

(23) **MR. SINGLETON:** Back on the
(24) record.

(25) **Q:** How long did you live at that prior

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(1) **Stepski**
(2) address?
(3) **A:** About two years.
(4) **Q:** Are you a resident of Connecticut?
(5) **A:** Yes.
(6) **Q:** And how long have you been in
(7) Connecticut?
(8) **A:** My entire life.
(9) **Q:** Are you married?
(10) **A:** Yes.
(11) **Q:** How long have you been married?
(12) **A:** Two years.
(13) **Q:** When is the exact date that you got
(14) married?
(15) **A:** I can't remember off the top of my
(16) head.
(17) **MR. SINGLETON:** Off the
(18) record.
(19) (Discussion off the record.)
(20) **MR. SINGLETON:** Back on the
(21) record.
(22) **A:** September, I don't remember.
(23) **MR. HEALEY:** We will get it.
(24) **Q:** Were you married when this incident
(25) that's brought us all together here occurred?

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(1) **Stepski**
(2) **A:** Yes.
(3) **Q:** What is your wife's full name?
(4) **A:** Kirsten Stepski. Kirsten Ann
(5) Stepski.
(6) **Q:** How old are you?
(7) **A:** Thirty-one.
(8) **Q:** How old?
(9) **A:** Thirty-one.
(10) **Q:** You have to keep your voice up
(11) because we have a big room here and a lot of
(12) people.
(13) I'm going to save the question of
(14) how old your wife is for her.
(15) What is your present employment?
(16) **A:** Commercial fisherman.
(17) **Q:** Let me just explain a little bit,
(18) now that I have some of your facts down, what's
(19) going to happen.
(20) I'm sure your lawyer has advised
(21) you, so much of what I say, I hope, is going to be
(22) pretty clear.
(23) Before I do that, I am actually the
(24) lawyer, along with Alan Weigel and Mike Unger,
(25) representing the NORASIA ALYA, her owners in this

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(1) **Stepski**
(2) matter.
(3) You have brought a lawsuit against
(4) NORASIA ALYA alleging that that ship struck and
(5) sunk your fishing vessel in May of 2000.
(6) I'm going to be asking you a series
(7) of questions, it's probably going to take most of
(8) the day, if not all day, about your business, your
(9) boat, your history, what you have done and the
(10) events of that day.
(11) What I want you to do and what you
(12) are under oath to do here is to answer those
(13) questions honestly, completely.
(14) If you don't understand my question,
(15) tell me. I'm happy to rephrase it for you.
(16) My goal is not to confuse or trick
(17) you. My goal is to just get out the facts as you
(18) remember them or know them.
(19) If you feel like your mind is
(20) getting fuzzy or cluttered and you want to take a
(21) break, tell me. So long as we are not in the
(22) middle of something crucial, I am happy to
(23) accommodate you.
(24) Do you have any questions of what I
(25) have just told you?

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(1) Stepski
(2) A: No.
(3) MR. HEALEY: You have stated
(4) exactly what we have stated. We are
(5) in agreement with what you are going
(6) to do and his role.
(7) Q: If I ask you a question, regardless
(8) of whether your counsel objects or not, you are
(9) under an obligation to answer that question, you
(10) must answer it.
(11) It's only if your counsel instructs
(12) you not to answer the question that you can refuse
(13) then to answer a question on advice of your
(14) counsel.
(15) Do you understand that?
(16) A: Yes.
(17) Q: Have you ever been deposed before?
(18) A: No.
(19) Q: Have you ever testified at trial
(20) before?
(21) A: No.
(22) Q: Have you ever sat in on a live trial
(23) before?
(24) A: Just small charges in court, a
(25) friend's case.

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(1) Stepski
(2) Q: Was this court in Connecticut?
(3) A: Yes.
(4) Q: Were you there to be a witness or
(5) were you just there to listen?
(6) A: Just to listen.
(7) Q: Have you ever been charged with a
(8) crime before?
(9) A: I had a DWI some years ago. It's
(10) about eight years ago.
(11) Q: What was the disposition of that
(12) matter?
(13) A: I had to go through an alcohol
(14) course. I didn't lose my license.
(15) I think it was about — there was
(16) also a couple of other charges with that one. I'm
(17) trying to think. Attempted assault on an officer.
(18) I think that was it.
(19) Q: Were you convicted of the attempted
(20) assault on the officer?
(21) A: I don't believe so. I can't say for
(22) sure. I don't remember.
(23) MR. HEALEY: Keep your voice
(24) up.
(25) Q: Did you have a lawyer represent you

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(1) Stepski
(2) in connection with that?
(3) A: Yes.
(4) Q: Who was that lawyer?
(5) A: Ron Stevens.
(6) Q: What year did this occur? What year
(7) were you charged with this crime?
(8) A: I think it was about eight years
(9) ago, but I can't say for sure.
(10) Q: Have you been charged with any
(11) crimes since then?
(12) A: No.
(13) Q: Arrested for any reason?
(14) A: No — wait, I did have another.
(15) I got arrested for driving without a
(16) license, insurance rather, I think that was before
(17) that. I'm pretty sure those were the only two I
(18) got charged.
(19) Q: What court did you appear in? Was
(20) this in Connecticut?
(21) A: Yes.
(22) Q: What court did you appear in?
(23) A: In New London. Not the superior
(24) court, it's the other one, the smaller one.
(25) Q: Do you remember?

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(1) Stepski
(2) A: I don't know what they call it.
(3) Q: We can find that out. Maybe your
(4) lawyer can let us know.
(5) Now, are you taking any medications
(6) right now?
(7) A: No.
(8) Q: In the past 24 hours have you taken
(9) any kind of medication that may affect your
(10) ability to understand my questions and respond
(11) truthfully to them?
(12) A: No.
(13) Q: Do you have any medical conditions
(14) for which you are not taking medication that may
(15) affect your ability to understand my questions and
(16) respond to them?
(17) A: No.
(18) Q: What is your eyesight?
(19) A: What is it?
(20) Q: 20/20, 20/40?
(21) A: I don't know. It's fair though.
(22) Q: Do you wear glasses or contact
(23) lenses?
(24) A: No.
(25) Q: When was the last time you had your

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(1) *Stepsiki*
(2) eyesight checked by anybody essentially?
(3) A: That would be my last physical, I
(4) believe. That was maybe three years ago.
(5) Q: Who was the doctor that administered
(6) that physical?
(7) A: I don't remember his name. I can
(8) probably get it to you.
(9) MR. SINGLETON: Do we have it
(10) already?
(11) MR. HEALEY: I don't think so.
(12) We will get it for you.
(13) You can make a note. If we
(14) can find it, I will supply it to you.
(15) BY MR. SINGLETON:
(16) Q: The doctor that actually performed
(17) the physical, actually gave you a physical
(18) examination to test your vision?
(19) A: I can't say for sure.
(20) I'm assuming that's when my last
(21) eyesight was. I did get one when I went to renew
(22) my license or went to get a motorcycle license. I
(23) passed that fine.
(24) Q: When did you obtain that motorcycle
(25) license?

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(1) *Stepsiki*
(2) A: I don't know. It was probably
(3) around 2000.
(4) Q: Is that the same year you had the
(5) eye exam by the Motor Vehicles Administration?
(6) A: Yes, if that happened. I can't say
(7) that's the year for sure. I don't remember.
(8) Q: So at least between that time and
(9) the present, you haven't had any vision
(10) examination except perhaps this physical that was
(11) three years ago?
(12) A: Right.
(13) Q: Did you review any documents to
(14) prepare yourself to come testify here today?
(15) A: Yes.
(16) Q: Tell me what it is that you
(17) reviewed.
(18) A: I went over my claim, basically the
(19) whole accident, everything that happened and
(20) everything that's been continuing to affect me.
(21) Q: My question though is really not
(22) whether you did anything to prepare yourself, my
(23) question is did you look at any documents?
(24) A: I looked at my claim documents.
(25) Q: When you say your claim, do you mean

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(1) *Stepsiki*
(2) the sheet you prepared with various figures on it
(3) evidencing what your catches had been and what
(4) your losses are?
(5) A: Basically, yes.
(6) Q: Anything else?
(7) A: I don't remember.
(8) Q: Did you look at a chart before to
(9) prepare yourself to come here to testify today?
(10) A: Yes.
(11) Q: Do you remember which chart you
(12) looked at?
(13) A: Basically a chart of this area.
(14) Q: I am going to show you a chart, it's
(15) the chart labeled Approaches to New York, chart
(16) No. 12300, Loran-C, and it's the fourth edition,
(17) March '05.
(18) Is this the chart that you looked
(19) at?
(20) A: (Perusing document.) Yes. This one
(21) I had on my boat. I actually had a couple of
(22) different charts, one of this and one of the
(23) smaller area, looking at those.
(24) Q: By smaller area, you just outlined
(25) with your hands an area on this chart.

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(1) *Stepsiki*
(2) Would you do that again and try to
(3) identify more precisely what you are talking
(4) about?
(5) A: Basically the area (indicating). I
(6) can't exactly say. Just one I had on my boat I
(7) looked at.
(8) Q: That's a chart you have on your boat
(9) now?
(10) A: Yes.
(11) Q: Do you know what the chart number of
(12) that chart was?
(13) A: No.
(14) Q: When you say it's a chart that
(15) covers a smaller area than the chart covered by
(16) the chart in front of you now, SR 12300; is that
(17) correct?
(18) A: I believe so.
(19) Q: A smaller geographic area?
(20) A: The one I have on the boat is a
(21) waterproof one and I don't believe it goes all the
(22) way down this far, but I can't say.
(23) Q: Does it show New York on it?
(24) A: It shows Long Island. I don't
(25) remember if it shows New York. I know I have this

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[1] Stepski
[2] one and I definitely looked at this one.
[3] And there was a chart that we had
[4] gone over in our — I believe it's the same one
[5] here.
[6] Q: This chart, the chart of a smaller
[7] geographic area.
[8] Did you say there was a third chart
[9] you looked at?
[10] A: That was the chart that we had in
[11] our office, lawyer's office, that we looked at. I
[12] tried to describe the area where I got hit.
[13] Q: It was not this chart or the smaller
[14] chart that you described previously?
[15] A: I think it was this one, but I don't
[16] know.
[17] Q: Did the charts you reviewed have any
[18] marks on them, any pencil marks that weren't on
[19] the printed chart?
[20] A: Yes. We had marks of, outlining
[21] some of the — wait, there was also a smaller
[22] chart, a paper chart that we had, as well, that
[23] had, we had drawn some lines on it because you
[24] couldn't see the lines pretty well, the Loran
[25] lines. That's why I go by the Loran lines.

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[1] Stepski
[2] Q: Who drew the lines on the paper
[3] chart?
[4] A: That was Terry that works with Tom
[5] Healey.
[6] Q: Did you draw any of the lines
[7] yourself?
[8] A: No.
[9] Q: You said there were also lines on
[10] the printed chart, the nautical chart.
[11] Did you draw any marks or lines on
[12] that chart yourself?
[13] A: No.
[14] I don't believe I said there was
[15] marks on the big chart.
[16] Q: I'm sorry.
[17] So your testimony is that the only
[18] chart you remember marks on was this smaller paper
[19] drawing that had been prepared; is this correct?
[20] A: Yes.
[21] Q: By Terry, is Terry's last name
[22] Gargan?
[23] A: Yes.
[24] Q: Apart from the chart —
[25] MR. HEALEY: You should

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[1] Stepski
[2] distinguish. We have three charts.
[3] Q: Apart from the charts that you
[4] reviewed, did you review any other documents in
[5] order to prepare yourself to testify?
[6] A: Could you give an example?
[7] Q: Documents, any piece of paper, any
[8] piece of paper that was shown to you or that you
[9] had in your own file and pulled out and looked at?
[10] A: No. The Coast Guard report, of
[11] course.
[12] Q: Coast Guard report, the charts.
[13] How about any documents about your
[14] ownership of the vessel?
[15] A: Of my ownership of my vessel?
[16] Q: Yes.
[17] A: Oh, yes. We had all sorts of
[18] receipts, logbooks that I have written, basically
[19] all the paperwork on the boat, the documentation,
[20] permits, all that kind of stuff.
[21] Q: And you reviewed all that before
[22] coming here to testify?
[23] A: Yes. I didn't go through
[24] everything. I just basically reviewed the Coast
[25] Guard report and the charts.

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[1] Stepski
[2] Q: For what purpose did you review the
[3] Coast Guard reports?
[4] A: I just wanted to have a good idea of
[5] everything that happened the way the Coast Guard
[6] saw it and that's basically it.
[7] Q: Did you read the entire Coast Guard
[8] report, including something called a statement of
[9] facts?
[10] A: Yes.
[11] Q: Were you surprised at anything
[12] contained in that report?
[13] A: Surprised?
[14] Q: Yes.
[15] A: No. I don't believe so.
[16] Q: Do you believe you saw anything in
[17] that report that was incorrect?
[18] A: They said that one of my crew
[19] members had been drinking before the accident,
[20] which wasn't true, to the best of my knowledge.
[21] Q: Was that Mr. Schober?
[22] A: Yes.
[23] Q: Well, do you have any idea what the
[24] basis of the Coast Guard statement was that
[25] Mr. Schober had been drinking before the accident?

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[1] *Stepski*
[2] A: Basis?
[3] Q: Yes.
[4] A: I think — I think they said that he
[5] had told them he was drinking, but when I asked
[6] him, he said he hadn't been. I believe it was
[7] after the accident.
[8] Q: Assuming for a second the Coast
[9] Guard just didn't make this up, is it your
[10] testimony that you believe the basis of the entry
[11] in the Coast Guard report was that Mr. Schober had
[12] told the investigating officer or someone in the
[13] Coast Guard that he had been drinking before the
[14] accident?
[15] Is that what your belief is?
[16] A: Do I believe that he told them?
[17] Q: Yes. Do you believe that's the
[18] reason the Coast Guard put it in the report, what
[19] I just stated?
[20] A: No. They must have made a mistake.
[21] Q: You think the Coast Guard made a
[22] mistake?
[23] A: Yes.
[24] Q: If I understood you right though,
[25] Mr. Schober, you asked him about this, this

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[1] *Stepski*
[2] specific entry in the Coast Guard report and he
[3] denied that he ever said that; is that correct?
[4] A: Yes.
[5] Q: When did you ask him that?
[6] A: This is quite a while back. It was
[7] shortly after we got the report.
[8] Q: Did you look at any photographs to
[9] prepare yourself to come here and testify today?
[10] A: No. Just the ones in the report and
[11] my boat.
[12] Q: Did you look at any photographs?
[13] A: All the pictures in the Coast Guard
[14] report. The pictures of my boat and the ship, the
[15] bow of the ship that hit us.
[16] Q: So outside of the pictures that were
[17] in the Coast Guard report and the pictures of your
[18] boat, did you look at any other photographs before
[19] coming here today?
[20] A: No.
[21] Q: Have you looked or have you
[22] discussed with anybody the appearance or the way
[23] the NORASIA ALYA looks?
[24] A: No. Just the pictures that I saw in
[25] the report.

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[1] *Stepski*
[2] Q: Has anyone told you that your
[3] counsel actually inspected the NORASIA ALYA about
[4] a week ago or so?
[5] A: Yes.
[6] Q: This past Sunday.
[7] Has anyone, either your counsel or
[8] anyone else, described to you the appearance of
[9] any part of the NORASIA ALYA?
[10] MR. HEALEY: I don't think you
[11] can ask him what we were talking
[12] about. Anyone else.
[13] I'm objecting just to the
[14] form. I'm not stopping him from
[15] answering, I'm putting it in form.
[16] If you think it's good in
[17] form, go ahead.
[18] Q: Did your counsel or anyone else that
[19] you are aware of that participated in that
[20] inspection provide any information to you about
[21] the way the NORASIA ALYA looked?
[22] A: No.
[23] Q: From the time this incident occurred
[24] until the time you obtained the Coast Guard
[25] report, had you seen any photographs of the

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[1] *Stepski*
[2] NORASIA ALYA?
[3] A: I believe that the Coast Guard
[4] showed me a picture of a big container ship, but
[5] it had a different name on it. It's been a
[6] change.
[7] Q: Do you know where the Coast Guard
[8] obtained that particular photograph of the big
[9] container ship?
[10] A: No.
[11] Q: Was it a color photograph?
[12] A: Yes.
[13] Q: Was it on a page such as you might
[14] print out from the Internet as opposed to —
[15] A: Yes, I believe it was an Internet
[16] picture.
[17] Q: — as opposed to an eight and a half
[18] inch one?
[19] A: I think the Internet.
[20] Q: An Internet printout?
[21] A: Yes.
[22] Q: I take it you met with your counsel
[23] to prepare yourself to come here today?
[24] A: Yes.
[25] Q: May I ask who it was that you met

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[1] Stepski
[2] with?
[3] A: Ron and Tom Healey.
[4] Q: Was Terry Gargan present?
[5] A: No, not at the last meeting. But he
[6] was at the one before that.
[7] Q: When did the last meeting with
[8] counsel occur?
[9] A: Just yesterday, I believe. Sorry,
[10] either yesterday or the day before yesterday.
[11] Q: Outside of meetings with counsel,
[12] and I don't want to, I'm not interested in
[13] anything that counsel might have told you or you
[14] might have told counsel, but outside of your
[15] meetings with counsel, did you speak to anyone
[16] else about coming here to testify?
[17] A: I told my father we were coming
[18] down. That's it.
[19] Q: Did you speak with your wife?
[20] A: Yes, of course.
[21] Q: Did you speak with Geal Roderick?
[22] A: Yes.
[23] Q: Did you speak with Mr. Schober?
[24] A: No, I haven't.
[25] Q: So it was your wife, Mr. Roderick,

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[1] Stepski
[2] your father. Anybody else?
[3] A: Other than my lawyers.
[4] (Discussion off the record.)
[5] Q: Just keep your voice up. You are a
[6] soft-spoken guy, but if you just try to shout at
[7] me.
[8] A: I think that was it. I told a
[9] friend of mine that we were coming down here
[10] today.
[11] Q: Of any of those people that you told
[12] or talked to, did you discuss with them the
[13] circumstances of this incident?
[14] A: I have been talking about it with my
[15] wife and with Geal and a little bit with my father
[16] and, of course, my lawyers.
[17] Q: There again, let's put the lawyers
[18] in a separate category. I'm interested in just
[19] ordinary people.
[20] So anybody else?
[21] A: No.
[22] Q: I take it since the incident
[23] occurred you have had discussions with Geal
[24] Roderick about the incident.
[25] How many times would you say you and

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[1] Stepski
[2] Geal have discussed the incident or some part of
[3] it?
[4] A: Probably a couple dozen times.
[5] Q: By the way, do you still work with
[6] Geal?
[7] A: Not at the moment.
[8] Q: But since the incident, did you work
[9] with Geal?
[10] A: Yes.
[11] Q: For how many seasons or how long or
[12] however you want to define it, trips or whatever
[13] you want to say?
[14] A: He did some trips with me. I can't
[15] say off the bat. He has probably done at least
[16] ten trips, maybe more, since then.
[17] Q: How did you come to hook up with
[18] Geal in the first place?
[19] A: I have known him from our small
[20] fishing community for years. I have seen him
[21] since I was a kid.
[22] He had fished with friends of mine
[23] in the past and I just asked him to come along one
[24] day.
[25] Q: Would you consider Geal a personal

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[1] Stepski
[2] friend?
[3] A: Yes.
[4] Q: Do you socialize with Geal outside
[5] of your fishing boat?
[6] A: Not so much. Occasionally. Or if I
[7] see him on the docks. Every now and then we will
[8] get together with him and his wife for dinner,
[9] birthday parties, stuff like that.
[10] Q: How about Schober, how did you get
[11] to know Mr. Schober?
[12] A: I met him at my cousin's house. He
[13] is my cousin's husband's brother. And I was short
[14] one crew for a trip the next day and he said he
[15] was looking for work, so I asked him to come
[16] along.
[17] He said he had some experience
[18] fishing. So I think his family has a boat.
[19] He seemed like a nice guy.
[20] Q: So did the incident occur on
[21] Schober's first trip with you?
[22] A: That was his second.
[23] Q: So you met him and the next day you
[24] went fishing with him?
[25] A: I think it was actually the night of

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[1] the next day, I think sometime the next morning.
[2] **Q:** That was one trip.
[3] **A:** And then when was that, a day, two
[4] days before the trip where the incident occurred
[5] on?
[6] **A:** I think it was four days.
[7] **Q:** Was that the trip where you set the
[8] nets?
[9] **A:** Trip where I set the nets?
[10] **Q:** That you were checking on the day of
[11] the incident or that you were hauling on the day
[12] of the incident?
[13] **A:** No. They had been set there longer
[14] than that.
[15] **Q:** So you went out to harvest the catch
[16] from the nets?
[17] **A:** Right.
[18] **Q:** The first time you took Mr. Schober
[19] and then four days later you went out again, is
[20] that about right?
[21] **A:** Yes.
[22] **Q:** What was the occasion that you met
[23] him at your husband's — was it your cousin's
[24] brother's house?
[25]

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Stepski
[1] **A:** My cousin's husband's house.
[2] **Q:** Okay.
[3] **A:** The occasion, I think I was over
[4] there collecting firewood from the tree they had
[5] just cut down. I believe that was the case.
[6] **Q:** What was Mr. Schober doing there?
[7] **A:** He actually helped us load firewood.
[8] **Q:** What is your cousin's husband's
[9] name?
[10] **A:** Rob Schober.
[11] **Q:** Where does he reside?
[12] **A:** In Uncasville, Connecticut — it
[13] might be right over the border of Montville.
[14] One of the two. Power House Road.
[15] **Q:** Power House?
[16] **A:** Yes.
[17] **Q:** The name of the town?
[18] **A:** Right, the border of Uncasville,
[19] Montville. I'm sure it's there in Uncasville
[20] though.
[21] **Q:** Did you attend high school?
[22] **A:** Yes. Waterford High.
[23] **Q:** Did you graduate?
[24] **A:** Yes.
[25]

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Stepski
[1] **Q:** Did you serve in the military?
[2] **A:** No.
[3] **Q:** How long would you say you have been
[4] a commercial fisherman?
[5] **A:** I worked on a lot of commercial — I
[6] worked on charter boats in high school and then
[7] right after high school I basically worked for
[8] myself, but I also did some commercial fishing all
[9] through high school on my own.
[10] **Q:** Did you get any education above high
[11] school?
[12] **A:** No. I have taken, I took a college
[13] class a few years ago, just a writing class, but
[14] nothing for degrees.
[15] **Q:** Did you ever take any mariners
[16] courses?
[17] **A:** Other than the boating license, I
[18] don't believe so, no.
[19] **Q:** Did you ever take a course, for
[20] example, in how to read radar?
[21] **A:** No.
[22] **Q:** Did you ever take a course in the
[23] international rules of the road?
[24] **A:** No. But they do discuss that when
[25]

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Stepski
[1] you get your boater's license.
[2] I actually started to take an
[3] advanced coastal navigation course, but I only sat
[4] in for one class. I didn't like the instructor.
[5] **Q:** Was the boater's license that you
[6] obtained issued by the State of Connecticut?
[7] **A:** Yes.
[8] **Q:** Do you have a copy of that license?
[9] **A:** It actually went down with the ship.
[10] My wallet, I never got a new one. I was about 12
[11] years old when I got that.
[12] Actually, I think I do have a copy
[13] at my house. I could get it.
[14] **MR. SINGLETON:** I would like a
[15] copy of it if it could be obtained.
[16] **MR. HEALEY:** That is what?
[17] **MR. SINGLETON:** The State of
[18] Connecticut license.
[19] **MR. HEALEY:** Okay.
[20] **Q:** Did you ever take a power squadron
[21] course or anything like that?
[22] **A:** No.
[23] **MR. HEALEY:** Back up a minute.
[24] Connecticut?
[25]

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Stepski

- (1) THE WITNESS: Safe boating
 (2) certificate.
 (3) Q: Excluding high school when you
 (4) worked on the charter boats, after you graduated
 (5) from high school, was fishing then your career?
 (6) A: Yes.
 (7) I also got into the apprenticeship
 (8) for boilermaking for a short time, maybe as much
 (9) as six months, but I always fished as I was doing
 (10) that training. Then I just stopped doing that.
 (11) Q: Did you ever obtain a Coast Guard
 (12) mariner's document?
 (13) A: No, other than safety inspections.
 (14) You are not talking about that?
 (15) Q: No. I'm talking about a mariner sea
 (16) card issued by the United States Coast Guard?
 (17) A: No.
 (18) Q: Do you have a Connecticut driver's
 (19) license?
 (20) A: Yes.
 (21) Q: And that's still current?
 (22) A: Yes.
 (23) Q: In Connecticut, are you required to
 (24) obtain an operator's permit for a vessel if you
 (25)

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Stepski

- (1) are under a certain year of age?
 (2) A: I believe everyone needs to have
 (3) one.
 (4) The safe boating certificate?
 (5) Q: Right. That's what you obtained
 (6) when you were 12 that we have been talking about
 (7) here?
 (8) A: Yes.
 (9) Q: When did you first acquire —
 (10) A: There's also an operator's license,
 (11) but you don't have to go through a course for
 (12) that. It's a federal operator's license to run a
 (13) federally permitted fishing boat.
 (14) Q: Did you obtain that license?
 (15) A: Yes.
 (16) Q: That's a matter of filling out an
 (17) application and sending in a check?
 (18) A: Right. Which I don't get paid for.
 (19) Q: You weren't given any sort of test
 (20) or examination to obtain that license?
 (21) A: No.
 (22) Q: I believe you said you took no
 (23) course to obtain that license; is that right?
 (24) A: Yes.
 (25)

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Stepski

- (1) Q: When did you first own your own boat
 (2) or acquire your own boat?
 (3) A: When I was 14, I bought a boat. It
 (4) was the first one.
 (5) Q: Let me rephrase my question.
 (6) When did you first obtain a
 (7) commercial fishing boat? Maybe that was 14.
 (8) A: Well, I didn't get it in the water
 (9) for a couple of years. When I was 16, I was
 (10) pretty much fishing.
 (11) Q: You bought the boat when you were
 (12) 14.
 (13) What type of boat was it?
 (14) A: It was a Palmer Scott, the name of
 (15) the hull, and it was a lobster dragger
 (16) combination.
 (17) Q: What was the vessel's name?
 (18) A: AGGIE ROSE.
 (19) Q: Did you actually fish with the AGGIE
 (20) ROSE?
 (21) A: Yes.
 (22) Q: When did you start fishing with her?
 (23) A: When I was 16.
 (24) Q: How long did you fish with the AGGIE
 (25)

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Stepski

- (1) ROSE?
 (2) A: I think it was when I was 19, I
 (3) bought the next boat.
 (4) Q: What was the name of that boat?
 (5) A: PHYLLIS ANN.
 (6) MR. HEALEY: What was the
 (7) name?
 (8) THE WITNESS: PHYLLIS ANN.
 (9) Q: What type of boat was the PHYLLIS
 (10) ANN?
 (11) A: Same thing, little bigger.
 (12) Q: What was the length of the AGGIE
 (13) ROSE?
 (14) A: 26 feet.
 (15) Q: What was the length of the PHYLLIS
 (16) ANN?
 (17) A: 26 feet.
 (18) Q: Were they the same breadth?
 (19) A: No. The PHYLLIS ANN was quite a bit
 (20) wider.
 (21) Q: How wide was the PHYLLIS ANN?
 (22) A: 10 feet.
 (23) Q: How wide was the AGGIE ROSE?
 (24) A: Eight.
 (25)

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[1] **Stepski**
[2] Q: How long did you fish with the
[3] PHYLLIS ANN?
[4] A: I still own that today. I still
[5] fish it.
[6] Q: When you owned the AGGIE ROSE, were
[7] you her master, captain of the AGGIE ROSE?
[8] A: Yes.
[9] Q: Same way with the PHYLLIS ANN, were
[10] you the captain with the PHYLLIS ANN?
[11] A: Yes.
[12] Q: Have you owned any other boats
[13] beside the two we have just described?
[14] A: Yes. I also own another 26 footer,
[15] it's a tuna boat, that I rebuilt probably about
[16] five years ago.
[17] Q: What is her name?
[18] A: RICHARD ERIC.
[19] Q: What is the RICHARD ERIC's size?
[20] A: 26 by 10.
[21] Q: Do you own any other boats?
[22] A: I have a little 14-foot skiff and a
[23] couple of canoes. And that's it.
[24] Q: Now, did you own the RICHARD ERIC at
[25] the same time that you owned the PHYLLIS ANN?

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[1] **Stepski**
[2] A: Oh, I also bought a new boat since
[3] the accident. I have that.
[4] Q: If I have my history right, it was
[5] the AGGIE ROSE, and you acquired the PHYLLIS ANN,
[6] then you acquired the RICHARD ERIC?
[7] A: I still own that.
[8] Q: Then you acquired the AVA CLAIRE?
[9] Was it the AVA CLAIRE?
[10] A: Yes.
[11] Q: And you have another boat now.
[12] What is the name of the boat you
[13] have now?
[14] A: MADELINE RUTH.
[15] MR. HEALEY: What was that?
[16] THE WITNESS: MADELINE RUTH.
[17] Q: What size vessel was the MADELINE
[18] RUTH?
[19] A: That's a 38-foot by 14-foot Novy.
[20] Q: What is she outfitted for?
[21] A: Gill netting and tuna fishing.
[22] Q: Are you the captain of the MADELINE
[23] RUTH?
[24] A: Yes.
[25] Q: When did you acquire the MADELINE

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[1] **Stepski**
[2] RUTH?
[3] A: I think it was about six months
[4] after the accident.
[5] Q: When you acquired her, was she ready
[6] to go?
[7] A: Yes.
[8] Q: And you were able to transfer your
[9] fishing permits from the AVA CLAIRE to the
[10] MADELINE RUTH?
[11] A: Yes.
[12] Q: So if you acquired her about six
[13] months after the accident. When did you start
[14] fishing with her?
[15] A: It was about four days after I
[16] bought her I started to do fishing.
[17] Q: For tuna fishing, where do you
[18] usually, since you bought her, engage in tuna
[19] fishing?
[20] A: Out of Gloucester, Massachusetts.
[21] In that particular case, Ipswich Bay. That's it.
[22] Q: Is that area on the chart in front
[23] of you here?
[24] A: No.
[25] Q: So about six months after the

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[1] **Stepski**
[2] incident would have made it roughly December?
[3] A: It was in October that I bought it.
[4] And that would be two Octobers ago.
[5] Q: October 2004?
[6] A: Not this past one, not the one
[7] before that, but the one before that.
[8] Q: The past one, 2006, the one before
[9] 2005, the one before that is 2004.
[10] How many trips could you take on
[11] her — do you get closed in by the winter or do
[12] you continue all winter long?
[13] A: We fish pretty much through the
[14] winter.
[15] Q: How many trips would you say you
[16] took on her between when you acquired her in
[17] December 2003 to 2004, the end of that year?
[18] A: I tuna fished for three weeks pretty
[19] much every day, three and a half weeks and then
[20] brought it back into Connecticut and I went
[21] fishing and we fished right up until December
[22] 31st, maybe four days or so once a week.
[23] Q: That was gill netting for monkfish?
[24] A: Yes.
[25] Q: When you were fishing for tuna, how

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Stepski

[1] far offshore were you going, approximately?

[2] A: We were only going about 8 miles.

[3] Q: What size tuna could you catch in

[4] that area?

[5] A: Anywhere from 200 pounds to, I think

[6] our biggest one was 700 pounds.

[7] MR. HEALEY: Are you

[8] comfortable?

[9] Do you want to get up and

[10] stretch?

[11] THE WITNESS: I'm all right.

[12] Q: Whatever happened with the PHYLLIS

[13] ANN? Did you sell her?

[14] A: No, I still own her.

[15] Q: You still own the RICHARD ERIC?

[16] A: Yes.

[17] Q: How about the AGGIE ROSE, did you

[18] sell her?

[19] A: I sold that.

[20] Q: Well, right now, for example, you

[21] own three boats, if I calculated this right.

[22] A: Yes.

[23] Q: What do you do to utilize those

[24] three boats, if anything?

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Stepski

[1] A: Well, the PHYLLIS ANN I fish in

[2] between monk trips, during the spring and into the

[3] summer.

[4] And the RICHARD ERIC I use, I only

[5] did one tuna trip on that this year because tuna

[6] fishing wasn't very good.

[7] And my brother also ran the PHYLLIS

[8] ANN a little bit this summer.

[9] Q: With respect to the AVA CLAIRE, when

[10] did you acquire her?

[11] A: I believe it was 2001. I don't

[12] remember. Just two years before the accident.

[13] Q: What were the dimensions of the AVA

[14] CLAIRE?

[15] A: 42 feet by 12.

[16] Q: What type of vessel was she?

[17] A: It was a Bruno Stillman.

[18] Q: So you said your last part —

[19] A: I set it up for gill netting, is

[20] what I thought I said, right?

[21] Q: Yes.

[22] A: Yes.

[23] Q: When you acquired her, what was she

[24] set up to do?

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Stepski

[1] A: Lobster.

[2] Q: What is the difference between the

[3] lobster setup and the gill netting setup?

[4] A: Just a different type of hauler on

[5] the side of the boat.

[6] Q: Can you describe to me what that —

[7] I don't commercial fishing, so can you tell me

[8] what that is, the difference in the hauler between

[9] gill netting and a lobster setup?

[10] A: A lobster hauler is a narrow free

[11] shive that butts straight up to the forward

[12] bulkhead on the side of the boat, has a davit

[13] going over the side with a pulley with a line

[14] through the pulley around the shives and that

[15] pulls the line in for you, pulls the traps up to

[16] the side.

[17] With gill netting we have a circular

[18] hauler that rotates this way. It's bolted up in

[19] the same area, but to the deck, and it's a roller

[20] over the side of the boats. Nets come up over the

[21] roller around this hauler to a table into the pit

[22] in the back of the boat.

[23] Q: Which piece of equipment is heavier,

[24] the lobster hauler or the gill net hauler?

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Stepski

[1] A: Gill net hauler.

[2] Q: By a magnitude of what?

[3] A: The gill net hauler, I would say, is

[4] probably a few hundred pounds where the lobster

[5] hauler is maybe 50 pounds.

[6] Q: When did you actually do the

[7] conversion of the AVA CLAIRE to the gill netting

[8] hauler?

[9] A: Right when I bought it.

[10] Q: With respect to the Palmer Scott

[11] lobster dragger, the AGGIE ROSE, what sort of

[12] electronic gear did you have on board?

[13] A: I had a Loran, I had a depth

[14] sounder, fish finder, they call it. I had a radar

[15] and compass, of course. I believe that was it.

[16] Q: What type of radar did you have?

[17] A: That was, I believe it was a Furuno.

[18] Q: What types of display modes was it

[19] capable of presenting?

[20] A: Up to, I think it went up to

[21] 24 miles.

[22] Q: Could you get a display mode on that

[23] with the ship's head as opposed to true north?

[24] A: It was always ship's head.

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[1] Q: Could you change that?
[2] A: No.
[3] Q: What type of electronics did you
[4] have on the PHYLLIS ANN?
[5] A: I have a radar, a Furuno radar, I
[6] have a GPS, a chart plotter and a fish finder.
[7] Q: You haven't mentioned VHF, but I
[8] assume you have those?
[9] A: Oh, of course, yes.
[10] Q: It was a Furuno radar, did you say?
[11] A: Yes.
[12] Q: On the PHYLLIS ANN?
[13] A: Yes.
[14] Q: What type of display could you
[15] obtain or present on that radar?
[16] A: That goes up to 16 miles.
[17] Q: What would the increments be?
[18] In other words, what could you
[19] display?
[20] A: Goes from a quarter mile to a half a
[21] mile to 1 mile to 2 miles. It just doubles as you
[22] go up.
[23] Q: What was the display you could
[24] obtain on that by way of ship's head, just ship's

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Stepski

[1] head up?
[2] A: Yes.
[3] Q: Now, your tuna boat, the RICHARD
[4] ERIC, what type of electronics do you have on her?
[5] A: We have a Loran, we have a GPS chart
[6] plotter. We have a marine radar, as well as a
[7] combination chart plotter — that's the chart
[8] plotter, that combination.
[9] Q: The marine radar is connected to
[10] your chart plotter?
[11] A: Yes. It's both.
[12] And I said Loran, fish finder and
[13] gauge.
[14] Q: Before you acquired the AVA CLAIRE,
[15] and if you say it's two years before the accident
[16] that you acquired the AVA CLAIRE, the accident was
[17] May of 2004, so that would be sometime in 2002
[18] that you acquired her.
[19] Prior to the acquisition of the AVA
[20] CLAIRE, did the RICHARD ERIC have the same
[21] electronics on it that you have described or have
[22] you upgraded?
[23] A: We have upgraded.
[24] Q: Go back to the period before you

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Stepski

[1] acquired the AVA CLAIRE. Tell me what electronics
[2] you had on the RICHARD ERIC.
[3] A: I had an older Furuno radar and fish
[4] finder, VHF, and a chart plotter.
[5] Q: That chart plotter was not
[6] interfaced with your radar at that time?
[7] A: No.
[8] Q: When did you make that upgrade to
[9] the interface of the chart plotter with the radar?
[10] A: Just this summer.
[11] Q: By the way, the AGGIE ROSE, how many
[12] crew did you usually have on the AGGIE ROSE?
[13] A: Just myself or one to two other
[14] people.
[15] Q: How about with the PHYLLIS ANN?
[16] A: Same thing, usually just me or one
[17] other person.
[18] Q: And the RICHARD ERIC?
[19] A: Me and one other person.
[20] Q: How about now, when you operate the
[21] MADELINE RUTH?
[22] A: Just me and two other people.
[23] Q: With the AVA CLAIRE, what was your
[24] usual crew size on the AVA CLAIRE?

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Stepski

[1] A: Two other people.
[2] Q: Why is it that you needed two guys
[3] on the AVA CLAIRE or you wanted two guys?
[4] A: It was a little more work involved.
[5] I couldn't afford to keep three of us busy with
[6] the gill netting versus the dragging lobstering.
[7] Q: Would it have been possible for you
[8] to have done your gill netting with you and one
[9] other crew member?
[10] A: Yes.
[11] Q: But it makes it a little easier if
[12] you take a third guy?
[13] A: Yes, quite a bit easier.
[14] Q: Did you ever consider taking four,
[15] in other words, you plus three others?
[16] A: No.
[17] Q: Why not?
[18] A: Just kind of get in the way, a
[19] fourth person. I have taken other guys, but not
[20] as paying crew. It's not necessary.
[21] Q: But if you had to, you and one other
[22] guy could have worked the gill nets on the AVA
[23] CLAIRE?
[24] A: Yes. And I think I have done trips

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(1) *Stepski*
(2) with just me and one other person.
(3) Q: Tell me then about the, when you
(4) bought the AVA CLAIRE sometime in 2002 or
(5) thereabouts, was she ready to at least go
(6) lobstering at that time?
(7) A: Yes.
(8) Q: Did you use her for lobstering at
(9) that time?
(10) A: No.
(11) Q: Did you take some time before using
(12) her and making any conversions or modifications to
(13) her?
(14) A: Yes.
(15) Q: Tell me what you did.
(16) A: I hauled it right away, inspected
(17) the hull, had a survey done. I changed the skeg,
(18) I put a new skeg in.
(19) I raised the inside gunnels up a
(20) bit, put the hauler on, put new pen boards inside,
(21) a king table, a new cabin, wheelhouse, engine
(22) cover, engine box rather, couple of bunks and
(23) pretty much a full set of electronics and a life
(24) raft.
(25) Q: Did you upgrade her electronic

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(1) *Stepski*
(2) package?
(3) A: Yes.
(4) Q: What did you do in that regard?
(5) A: Well, I put the chart plotter on,
(6) radar and fish finder and new VHF.
(7) We did a lot of new wiring, of
(8) course, through the hull, new wheelhouse.
(9) Q: Who did this work?
(10) A: Me, my father, my brother and one
(11) other guy. Some friends helped.
(12) Q: You, your father and your brother.
(13) What is your brother's name?
(14) A: Nicholas Stepski.
(15) Q: And your father's name?
(16) A: Victor.
(17) MR. HEALEY: What is your
(18) father's name?
(19) THE WITNESS: Victor.
(20) Q: You say you had a friend that helped
(21) you?
(22) A: I had a few friends that would come
(23) down from time to time and help.
(24) Q: Did you employ any true marine
(25) contractor to come in and assist with anything you

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(1) *Stepski*
(2) were doing?
(3) A: Just the survey.
(4) Q: Apart from the survey?
(5) A: No, everything else was stuff that I
(6) had done before.
(7) Q: Prior to making these modifications
(8) that you have described, did you employ a marine
(9) engineer or architect, marine architect, to take a
(10) look at this and approve them in advance, take a
(11) look at your plans or whatever and approve them in
(12) advance?
(13) A: No.
(14) Q: After you made the modifications,
(15) did you hire a marine engineer or marine architect
(16) to come look at it and give their approval to it?
(17) A: The survey was done while we were in
(18) the middle of work.
(19) Other than that, no.
(20) Q: When you say the survey, which
(21) survey are you talking about now?
(22) A: Johnson Marine.
(23) He came back afterwards, and I'm
(24) pretty sure he came back afterwards and did
(25) another upgrade of the boat. I can't remember.

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(1) *Stepski*
(2) Q: As you were doing these
(3) modifications, did the Johnson Marine surveyor
(4) attend?
(5) A: As I was?
(6) Q: Making the modifications, during the
(7) modifications?
(8) A: He came when I had it hauled out, I
(9) was in the middle of working on the hull, putting
(10) the skeg and that type of stuff. I'm sure he came
(11) back afterwards.
(12) It was after we got it in the water
(13) he came back and took a ride with me to see how
(14) the thing ran.
(15) Q: Did he attend while you were doing
(16) the modifications at your request?
(17) A: No. He just came to inspect the
(18) boats. I just needed a survey done for the hull
(19) itself.
(20) Q: Why did you have a survey done?
(21) What was the reason you needed a survey?
(22) A: To get my loan, to get insurance,
(23) make sure the boat was in good shape, the hull.
(24) Q: Would it be fair to say that as far
(25) as you knew, he was there to make sure you were

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Stepski

[1] actually making improvements to the boat, and to
[2] verify that for the purposes of, either for
[3] financial purposes or insurance purposes or
[4] something like that?
[5] **A:** Afterwards, yes. The second time.
[6] He came down in the beginning, it was a hull
[7] survey.
[8] And he did the in-the-water survey.
[9] By then most of the improvements had been done.
[10] **Q:** I think you said that this survey
[11] where he came, when you were performing the
[12] modifications, you did not ask him to come; is
[13] that correct?
[14] **A:** Yes. I asked him.
[15] **Q:** Oh, you did ask him to come?
[16] **A:** Yes.
[17] **Q:** I'm sorry, I misunderstood you then.
[18] And what was the purpose of you
[19] asking him to come while the modifications were
[20] being made?
[21] **A:** Well, I needed him to come as soon
[22] as possible. I hadn't even bought the boat.
[23] Right after we hauled it out of the
[24] water he came, surveyed it. He basically, to get
[25]

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Stepski

[1] my loan, check the hull, make sure it was a good,
[2] sound boat.
[3] **Q:** Right after you hauled it out of the
[4] water, but before you started working on it, he
[5] came down and took a look at it?
[6] **A:** I had already started work on it.
[7] Before I even bought it, I started working on it.
[8] I hauled it, started sanding, painting. I had a
[9] lot of work. I wanted to get started.
[10] **Q:** How many days after you hauled it
[11] out did this Johnson surveyor attend?
[12] **A:** I don't remember. It may have been
[13] four days up to a week.
[14] **Q:** For example, did he attend before
[15] you started putting the new skeg in?
[16] **A:** No. He probably got there before I
[17] did that.
[18] **Q:** Did he attend before you put the new
[19] house on?
[20] **A:** Yes.
[21] **Q:** Did you change the fuel tank in that
[22] boat?
[23] **A:** I did that a year later.
[24] **Q:** From a 250 to a 350 gallon tank?
[25]

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Stepski

[1] **A:** Yes, I believe that's what it was.
[2] **Q:** That was a year later, after you had
[3] already been using the boat?
[4] **A:** Yes.
[5] **Q:** When you left on your trip the early
[6] morning hours the day when this accident occurred,
[7] did you have a full tank of fuel?
[8] **A:** I don't remember.
[9] I believe it was. Off the top of my
[10] head, I don't remember.
[11] **Q:** Where did you generally fuel up?
[12] **A:** From Bernie's Oil Company.
[13] **Q:** Would they bring a truck up to the
[14] docks and put something out on the boat?
[15] **A:** Yes.
[16] **Q:** Bernie's Oil Company, New London?
[17] **A:** There is also another place across
[18] the river, Groton Oil, that we would occasionally
[19] get it. I think I might have went to Stonington
[20] also. Stonington Docks.
[21] **Q:** Just before you left to go out on
[22] this trip?
[23] **MR. HEALEY:** Are we talking
[24] May 22nd?
[25]

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Stepski

[1] **Q:** The May 22th trip, early morning,
[2] just before you left, you said you believe you did
[3] fill it up. Where did you fill it up?
[4] If you did, where did you do that?
[5] It sounds odd.
[6] **A:** I don't remember right off the top
[7] of my head, but I would say probably Bernie's. I
[8] would have to look it up.
[9] **Q:** Back now to the surveyor, Johnson
[10] surveyor, attending —
[11] **MR. STEVENS:** Before you do
[12] that, do you want to take a break for
[13] a minute?
[14] **THE WITNESS:** I'm all right.
[15] **MR. HEALEY:** Keep going. You
[16] tell us.
[17] **MR. SINGLETON:** As I said in
[18] the instructions, when you want to
[19] take a break, you let us know.
[20] **MR. HEALEY:** If you want any
[21] soda or anything, you can get it while
[22] you are testifying.
[23] **Q**
[24] **MR. SINGLETON:** Sure.
[25]

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Stepski

- [1] *Stepski*
- [2]
- [3] Q: To change the keel, what was
- [4] required?
- [5] A: I just had to cut off the wooden
- [6] part, the skeg, and I made a new one out of steel
- [7] bolted up to the keel.
- [8] Q: And I think you said you raised the
- [9] gunnels. How did you do that?
- [10] A: On the inside, I put fiberglass over
- [11] plywood and raised it, put braces.
- [12] Q: Why did you want to raise the
- [13] gunnels?
- [14] A: To make pens to hold the fish in
- [15] nets that were high enough to have the capacity
- [16] that I needed.
- [17] Q: So the keel, when you changed the
- [18] keel, you put a steel keel in?
- [19] A: Yes.
- [20] Q: Was that heavier than the prior keel
- [21] that had been in the boat?
- [22] A: Maybe a little bit. That was pretty
- [23] heavy, too. Probably close to the same.
- [24] Q: Was it about the same size as the
- [25] oak keel that you removed?

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Stepski

- [1] *Stepski*
- [2] A: Yes. Same thing.
- [3] Q: With the gunnels, what would you say
- [4] the dimension of raising the gunnels, how much did
- [5] you raise it?
- [6] A: Twelve inches, I believe it was.
- [7] Q: Twelve inches over what period of
- [8] linear foot length?
- [9] A: From the back of the cabin right and
- [10] the back.
- [11] Q: What would you estimate that to be
- [12] by way of total linear foot length?
- [13] A: Probably 50 feet around.
- [14] Q: And that was, you say plywood
- [15] laminated with fiberglass?
- [16] A: Yes.
- [17] Q: What inch plywood did you use?
- [18] A: Three-quarter.
- [19] Q: How many coats of fiberglass did you
- [20] put on?
- [21] A: Two.
- [22] Q: And the fiberglass that you did, did
- [23] that involve taping?
- [24] A: Taping as well as —
- [25] Q: Taping, gel coat?

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Stepski

- [1] *Stepski*
- [2] A: Matting over everything. And gel
- [3] coat.
- [4] Q: The pen board, you said you added
- [5] pen boards?
- [6] A: We made pens on the deck.
- [7] Q: Pens?
- [8] A: On the transom, it was pens, pen
- [9] board rather.
- [10] Q: How did you make the pens?
- [11] A: We would take aluminum channel and
- [12] put it where we wanted the pen boards to ride.
- [13] And we did it all basically like that, with the
- [14] aluminum channel.
- [15] Q: The aluminum channel was vertical.
- [16] What did you use as a footer to
- [17] support the bottom of the deck?
- [18] A: They are all kind of locked
- [19] together.
- [20] Q: What did you actually use for the
- [21] sides of the pens?
- [22] A: Two by 12's, I believe.
- [23] Q: Two by 12's?
- [24] A: Douglas firs.
- [25] Q: Two by 12 Douglas firs stacked how

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Stepski

- [1] *Stepski*
- [2] high to make the pen, do you know?
- [3] A: They were three high.
- [4] Q: How many pens did you have and what
- [5] were the dimensions of the pens, approximately?
- [6] A: There was four. Dimensions were
- [7] probably roughly about, there was two there that
- [8] were about four feet by seven feet.
- [9] Then there was one bigger one,
- [10] probably five by seven. And then another one.
- [11] probably about four by four.
- [12] Q: The four —
- [13] A: Actually, we had one more on that
- [14] boat that was about two by six. Maybe two by
- [15] seven.
- [16] Q: From the aft of the wheelhouse to
- [17] the transom, what was your distance on that boat?
- [18] A: The wheelhouse came further back
- [19] than the back cabin wall.
- [20] Do you mean —
- [21] Q: The back cabin wall.
- [22] A: I would have to say about 20 feet at
- [23] least, maybe a little more.
- [24] Q: You had enough room to put all those
- [25] pens you described?

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Stepski

[1] A: They went across the deck, the first
[2] three I described went across the deck. And one
[3] floored on each side of those.

[4] Q: The pens were for fish?

[5] A: Yes.

[6] Q: And the dimensions you gave me, for
[7] example, four by seven, five by seven, that's
[8] length times width that you were giving me?

[9] A: Uh-huh.

[10] Q: Each one of those I think you said
[11] was three 2 by 12's high?

[12] A: Yes.

[13] Q: The engine box, what do you mean by
[14] engine box?

[15] A: Well, the engine sits a little
[16] higher than the deck, so we put framing. On that
[17] boat we just had a side coming up about probably
[18] eight inches, then we had a top for that. That's
[19] what I considered a box.

[20] Q: Did it have an engine box on it when
[21] you acquired the vessel?

[22] A: Yes.

[23] Q: Why did you replace it?

[24] A: It just needed to be replaced,

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Stepski

[1] ratty, not completely set up.

[2] Q: Did you replace it in kind, use
[3] roughly the same kind of material?

[4] A: Yes. Fiberglass over wood. The top
[5] was just wood.

[6] Q: Did the old one have fiberglass over
[7] wood or just wood?

[8] A: That was fiberglass over wood.

[9] MR. SINGLETON: Would you mark
[10] this, please.

[11] I suggest for all the
[12] depositions we start with one number
[13] and continue on, whether it's
[14] Defendant's, Plaintiff's or whatever.

[15] Mark this, please, as Exhibit
[16] 1.

[17] (Photographs were marked as
[18] Exhibit No. 1 for identification, as
[19] of this date.)

[20] MR. SINGLETON: For the
[21] record, I have labeled on my copy just
[22] in alphabetical order each of the
[23] separate photographs that are in the
[24] exhibit what we have marked now as

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Stepski

[1] Exhibit 1.

[2] BY MR. SINGLETON:

[3] Q: Let me show you a new bundle of
[4] documents stapled together that are photographs.

[5] Just generally, are these
[6] photographs of the AVA CLAIRE?

[7] A: (Perusing document.) Yes.

[8] Q: Looking at the first page photograph
[9] that we have hand labeled A, it looks like a box
[10] with some nets in it.

[11] Is that one of the pens that you
[12] have referred to?

[13] A: Yes. Looks like my dimensions might
[14] have been a little off.

[15] Q: In what way?

[16] A: That middle pen board is three wide,
[17] it's narrower than what I told you. I think I
[18] told you four feet, looks like three or less.

[19] Q: But they span the breadth of the
[20] boat, it looks like; is that right?

[21] A: Yes.

[22] Q: Apart from the width, the length
[23] going forward or aft on your boat, are you still
[24] pretty confident of the dimensions you gave me?

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Stepski

[1] A: Yes.

[2] Q: I would like you to turn to the next
[3] page that has photos C, D and E.

[4] Do any of these photos indicate your
[5] radar that you had on board the AVA CLAIRE?

[6] A: Yes, the bottom one, A.

[7] Q: D you mean?

[8] A: Sorry, D.

[9] Q: Would you circle with the pen the
[10] radar?

[11] That circle is not showing, I will
[12] just do an arrow.

[13] What kind of radar was this?

[14] A: Furuno.

[15] Q: What sort of display would it
[16] present?

[17] A: A heads up. I think that was a
[18] 16 miles.

[19] Q: Did it give the ship's head up, but
[20] it also gave you a true north display?

[21] A: No.

[22] Q: Do you remember what the model of
[23] this radar was?

[24] A: I believe we have it written down,

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(1) *Stepski*
 (2) but not off the top of my head.
 (3) Q: Written down in what, one of the
 (4) documents that you have prepared for your damages
 (5) claim?
 (6) A: Yes.
 (7) Q: Where did you get that model number
 (8) from?
 (9) A: Oh, no, I got it off my other boat
 (10) because I think it's the same radar I had in my
 (11) other boat, the radar number.
 (12) Q: Do you still have the radar manual
 (13) for the radar on your other boat?
 (14) A: I might. I'm not sure.
 (15) Q: I would like you to check if there
 (16) is.
 (17) Are you certain the two radars were
 (18) the same?
 (19) A: I'm pretty certain, but I couldn't
 (20) say exactly.
 (21) Q: But you believe them to be the same?
 (22) A: Yes.
 (23) MR. SINGLETON: I would like
 (24) the production of the manual, the
 (25) operations manual for the radar on the

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(1) *Stepski*
 (2) other boat.
 (3) MR. HEALEY: I understand.
 (4) MR. SINGLETON: Why don't I
 (5) ask him.
 (6) MR. HEALEY: You should clear
 (7) that up.
 (8) BY MR. SINGLETON:
 (9) Q: Where did you keep the manuals with
 (10) respect to your radar and the GPS and whatever
 (11) else you had, on board or at home?
 (12) A: On board.
 (13) Q: Was the radar manual lost when the
 (14) AVA CLAIRE sank?
 (15) A: Yes.
 (16) MR. SINGLETON: Then I would
 (17) like the other one produced.
 (18) MR. HEALEY: I shall get it.
 (19) We will not know at this time
 (20) whether or not they are similar. They
 (21) are not exact, they are similar,
 (22) right, the two radars?
 (23) The manual from the second
 (24) boat, we still do not know whether it
 (25) is going to be sufficiently related to

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(1) *Stepski*
 (2) the AVA CLAIRE. We will determine
 (3) that; you and I together.
 (4) MR. SINGLETON: I don't know
 (5) how you and I could. I think the
 (6) witness is the only one who could.
 (7) MR. HEALEY: Let's put it this
 (8) way. It will be determined in that
 (9) fashion when we get that whether or
 (10) not it does give us information on the
 (11) AVA CLAIRE's radar.
 (12) All I am saying to you,
 (13) Richard, I just said I don't know how
 (14) from what he said that's relevant.
 (15) I'm not hedging at all. I said we
 (16) have to establish that.
 (17) MR. SINGLETON: The witness
 (18) just said he believes they are the
 (19) same. Whatever he says has got to
 (20) trump what you or I said.
 (21) MR. HEALEY: That's what I
 (22) said. I'm getting it.
 (23) BY MR. SINGLETON:
 (24) Q: I think you said the AVA CLAIRE at
 (25) the time of the incident also had a chart plotter

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(1) *Stepski*
 (2) on board?
 (3) A: Yes. That's down on the north end.
 (4) Q: That's in photographs A and D as
 (5) well?
 (6) A: D.
 (7) Q: Would you look through these and see
 (8) if you find, in any of these photographs, find a
 (9) better picture of the chart plotter?
 (10) A: There's another one there on F, but
 (11) I don't know if I would call it better.
 (12) Here is a good one, on K.
 (13) Q: K is a picture of just the chart
 (14) plotter; is that right?
 (15) A: Right, and the auto pilot.
 (16) Q: The chart plotter is the larger
 (17) screen on the right?
 (18) A: Yes.
 (19) Q: Let's go back to where it's situated
 (20) in the wheelhouse. Let's go back to photograph D.
 (21) I believe you said it's at the
 (22) bottom. If you could put a circle around the
 (23) chart plotter.
 (24) So the record is clear, when you
 (25) orient the photograph top to bottom, the top arrow

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[1] *Stepski*
[2] that I have drawn to the circle is the radar and
[3] the bottom arrow that I have drawn to the circle
[4] is the chart plotter, agreed?
[5] A: Yes.
[6] Q: I believe you said that the AVA
[7] CLAIRE's chart plotter was not integrated with the
[8] radar, is that correct?
[9] A: Correct.
[10] Q: Is there a reason why you didn't do
[11] that package?
[12] A: No. They came separately. They are
[13] separate units. You can integrate them, but —
[14] Q: If you integrate your radar, if you
[15] have an integrated package so that your chart
[16] plotters are integrated with your radar, you also
[17] see targets that are approaching you superimposed
[18] on the chart, is that correct?
[19] A: Yes.
[20] Q: When you upgraded, when you made
[21] your modifications to the AVA CLAIRE after you
[22] acquired her, did you upgrade the radar or change
[23] the radar in any way?
[24] A: No.
[25] Q: From the time you acquired her to

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[1] *Stepski*
[2] the time of the accident, did you make any changes
[3] to the radar?
[4] A: No. Other than when I mounted it.
[5] But, no, no changes.
[6] Q: So you didn't change the display?
[7] A: Oh, wait. I believe I swapped
[8] this — yes, that's why it was the same as the
[9] other boat.
[10] I had changed radars with my other
[11] boat because the one on the other boat had a
[12] feature that I liked better. I can't remember
[13] what it was. For some reason I swapped them.
[14] There was something I liked better
[15] about the one on the RICHARD ERIC than the one on
[16] the PHYLLIS ANN.
[17] Yes, I believe I switched it with
[18] the one on the PHYLLIS ANN. So they must be the
[19] same model number.
[20] Q: You switched the display with the
[21] PHYLLIS ANN?
[22] A: Yes.
[23] Q: What about the array, the antenna?
[24] A: No.
[25] Q: Were they both, were the displays

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[1] *Stepski*
[2] both Furuno?
[3] A: Yes.
[4] Q: And the antennas were both Furuno?
[5] A: Yes.
[6] Q: But when you bought the radar, the
[7] radar that had been on the AVA CLAIRE, that was a
[8] different radar than the one that you moved over
[9] from the PHYLLIS ANN?
[10] A: Yes. But the same radar, just a
[11] different one.
[12] Q: It's a Furuno radar, but a different
[13] model?
[14] A: I believe they are the same model.
[15] If this is the exact same radar, do they keep the
[16] same model numbers — no.
[17] It would be the same model number,
[18] the same radar. So the same model, same radar.
[19] Q: Why did you switch the PHYLLIS ANN
[20] radar with the AVA CLAIRE?
[21] A: There was a feature that I liked
[22] better on this. I think it had an alarm.
[23] Q: The PHYLLIS ANN's had an alarm?
[24] A: Yes. I believe that's why I
[25] switched, because it had an alarm. I liked that

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[1] *Stepski*
[2] feature.
[3] Q: But it was still the same model,
[4] just with a different feature?
[5] A: I believe so. Maybe it was just a
[6] newer one. I don't know.
[7] I think it was like an added piece
[8] or something. I really can't remember off the top
[9] of my head.
[10] Q: I just want to make sure though what
[11] you did, and correct me if I am wrong, I'm not
[12] trying to put words in your mouth, I'm trying to
[13] characterize it so that I understand it, we get it
[14] in one sentence on the record.
[15] You liked the display on the PHYLLIS
[16] ANN better because it had an alarm feature?
[17] A: Yes.
[18] Q: Therefore you took the one off of
[19] the AVA CLAIRE and you took the one from the
[20] PHYLLIS ANN and mounted it on the AVA CLAIRE?
[21] A: Yes.
[22] Q: Did you use the AVA CLAIRE's then on
[23] the PHYLLIS ANN or did you buy a new display?
[24] A: I used it.
[25] Q: But you are certain at least in one

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[1] *Stepski*
[2] sense those two displays were different because
[3] the PHYLLIS ANN had this feature that you did not
[4] have on the AVA CLAIRE's?
[5] A: Right.
[6] Q: After you switched the radars, did
[7] you have a technician come in and make sure that
[8] the radar display was integrating properly with
[9] the radar antenna?
[10] A: No. But it had been working fine.
[11] Q: How long before the accident did you
[12] do this exchange of radar displays?
[13] A: It was quite a while. I don't know
[14] when.
[15] I think it was shortly after I began
[16] using the boat, because I liked the other one
[17] better.
[18] Q: From the time you acquired the AVA
[19] CLAIRE, did you ever have a technician come out
[20] and calibrate the radar?
[21] A: No.
[22] Q: Did you ever have a technician come
[23] out and service the radar?
[24] A: No. Wait a minute. I don't believe
[25] so.

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[1] *Stepski*
[2] Q: Did you ever take the radar off the
[3] AVA CLAIRE, either the antennas or displays, and
[4] take it to a shop and have it checked or serviced
[5] or repaired?
[6] A: I don't believe so.
[7] Q: This alarm feature that was on the
[8] PHYLLIS ANN, was it a collision alarm?
[9] A: Like an anchor watch alarm.
[10] Q: On the radar?
[11] A: If someone comes into the ring that
[12] you set the alarm at, if they come into the ring,
[13] then the alarm goes off.
[14] If that was the feature. I'm pretty
[15] sure that's the way it was, the reason why I
[16] swapped them because it had that — it's so long
[17] ago, I don't remember.
[18] Q: But if that was the feature, what
[19] that feature would do is, for example, if you set
[20] it for six miles, if something comes inside
[21] six miles or a target moves within a six-mile
[22] range, some alarm goes off; is that right?
[23] A: Yes.
[24] Q: Did you have that feature activated
[25] on the day of the accident?

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[1] *Stepski*
[2] A: No.
[3] Q: Is there a reason why not?
[4] A: I only use that feature for
[5] anchoring at night, to get some rest. Otherwise
[6] you are watching the whole time.
[7] Q: You are certain you did not have
[8] that feature activated on the day of the accident;
[9] is that correct?
[10] A: Right.
[11] Q: The AVA CLAIRE, did it have a GPS?
[12] A: That chart plotter was a GPS.
[13] I believe that chart plotter hooked
[14] up to a small unit that was a GPS — no, this one,
[15] what happens, the GPS had an antenna.
[16] Q: The chart plotter was a GPS?
[17] A: Yes.
[18] Q: Had a separate GPS antenna?
[19] A: Yes.
[20] Q: Where was the antenna mounted?
[21] A: Up on the top.
[22] Q: Top of the wheelhouse?
[23] A: Yes. I think it was on the
[24] starboard side.
[25] Q: Do you know when you were fishing —

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[1] *Stepski*
[2] you are looking at the photographs. Go ahead.
[3] A: Yes, I think it was on the starboard
[4] side.
[5] Q: On the day you were fishing, on the
[6] day of the accident, do you know how many
[7] satellites your GPS was acquiring?
[8] A: No.
[9] Q: Did you try to read any positions
[10] from your GPS that day?
[11] A: The position of my nets.
[12] Q: Did you have a Loran on board, a
[13] Loran-C?
[14] A: Yes, I had one on that boat.
[15] Q: What were you using to navigate that
[16] day, your Loran-C or your GPS or both?
[17] A: Both.
[18] Q: What were you using for the
[19] positions of your nets?
[20] A: That would be the Loran, as well as
[21] pictures on the charts of both. I would mark the
[22] nets on the chart plotter, but I would use the
[23] Loran numbers to get there, basically, as well as
[24] the picture, using them together.
[25] Q: Did your chart plotter, as most of

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[1] them do, also have the time of day indicated on
[2] it?
[3] A: I believe so.
[4] Q: Would it have a box on the bottom
[5] that gave the GPS coordinates displayed?
[6] A: Yes. It was in the top left corner,
[7] if I remember.
[8] Q: The top left corner?
[9] A: Yes.
[10] Q: Where was your Loran-C in the
[11] wheelhouse?
[12] A: I believe it was — I might have
[13] mounted it after these pictures, got that later
[14] on. I think I had it right up where that radio is
[15] in F. Can you see it in this picture over here?
[16] I moved the radio here, I have the
[17] Loran, I have it right up in that corner.
[18] Q: So the Loran was basically right
[19] between the radio and the radar?
[20] A: Yes.
[21] Q: When were these photographs taken
[22] that we have marked as Exhibit 1?
[23] A: I don't know.
[24] This one, G here was before we had

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[1] done any of the work, obviously. And most of
[2] these were all at the beginning, especially I,
[3] while we were building the wheelhouse.
[4] H, I had been fishing it for a
[5] while. And that was at the dock.
[6] Q: This H is completely modified?
[7] A: Yes. Pretty much.
[8] I mean, I always have been doing
[9] stuff to the boat.
[10] Q: H has a new wheelhouse?
[11] A: Yes.
[12] Q: And it had the new skeg or keel?
[13] A: Yes.
[14] Q: Does it have the pens?
[15] A: No. They were taken out because I
[16] had been tuna fishing at that time.
[17] Q: How about J, is that after
[18] modifications?
[19] A: I don't know. I don't even see the
[20] name on there. So that probably was right before
[21] we finished.
[22] Q: How about L?
[23] A: Yes. That looks like the major
[24] modifications had been done.
[25]

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[1] Q: How about M?
[2] A: Yes. That was right before our
[3] first trip.
[4] Q: And would you tell me who the people
[5] are in the picture from left to right?
[6] A: My father, my daughter Ava Claire,
[7] my dog Joey, me and my brother Nick.
[8] Q: Is your daughter Ava Claire, is she
[9] a result from the union of you and Kirsten?
[10] A: Yes.
[11] Q: And on the end, who is that fellow?
[12] A: That's my brother.
[13] Q: If you would, look at F, photograph
[14] F. Is that before or after your modifications?
[15] A: That was after.
[16] Q: Would you please look at photograph
[17] C we have already talked about.
[18] Was that after modifications?
[19] A: Yes.
[20] Q: How about photograph D, I think
[21] there were modifications, with the exception of
[22] Loran-C?
[23] A: Yes. Well, as I explained, I moved
[24] the radar to that position in picture D because I

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Stepski

[1] mounted the Loran-C. That's it right there on
[2] that wooden frame. I remember that is where the
[3] Loran was.
[4] Right after the radar, you can see
[5] the wooden frame. That housing is the Loran.
[6] Q: When you are on the aft deck of this
[7] boat, after it was modified by you, could you look
[8] into the wheelhouse and see any of your electronic
[9] gear?
[10] A: On the aft?
[11] Q: If you were working on deck?
[12] A: Where I work, yes, I can see all of
[13] them.
[14] Q: Through what, through a window,
[15] through a door?
[16] A: Through the window. You can see in
[17] D there, that glass window.
[18] Q: That window D that we see in
[19] photograph D, I believe you said photograph G,
[20] that also shows a window, but I think you said
[21] that was before modification, right?
[22] A: Yes.
[23] Q: After?
[24] A: Yes.
[25]

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- [1] *Stepski*
- [2] Q: After modification was that window
- [3] in about the same place?
- [4] A: No. You can see in F where they
- [5] were.
- [6] Basically, if I could explain, the
- [7] edge of this cabin where you put a wall going
- [8] forward and another wall coming over, which is
- [9] this wall here where the windows are, and I would
- [10] always stand up in that corner.
- [11] Q: When you were standing hauling —
- [12] the record is not going to pick that all up, I'm
- [13] not sure it's necessary.
- [14] When you were hauling nets, how far
- [15] were you from a window?
- [16] A: Just on the backside of the gill net
- [17] hauler. So probably three feet maybe.
- [18] Q: Three feet from the window?
- [19] A: Yes.
- [20] Q: To get from where you ordinarily
- [21] stood when you were hauling nets, to get into the
- [22] wheelhouse, put your face close to the radar so
- [23] that you could get a better picture of what you
- [24] were looking at, how long would it take you to do
- [25] that?

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- [1] *Stepski*
- [2] A: I could do it pretty quick. I would
- [3] just jump right over the table and walk in the
- [4] door.
- [5] Q: Jump over the table? What table did
- [6] you have to jump over?
- [7] A: You see in A here, the table that is
- [8] coming right back to where those nets are.
- [9] Q: That's the table that's sort of in
- [10] the bottom of the picture?
- [11] A: Yes.
- [12] Q: Let's just label that table.
- [13] On that table, if I understand, what
- [14] happens is the nets come in and the hauler, they
- [15] come up — what did you call it?
- [16] A: A roller.
- [17] Q: Around the hauler and they slide
- [18] down that table?
- [19] A: Yes.
- [20] Q: Is that what happened?
- [21] A: Yes.
- [22] Q: And they go into a box to hold them?
- [23] A: Yes.
- [24] Q: You have to climb over that table we
- [25] have just been talking about?

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Stepski

- [1] *Stepski*
- [2] A: Yes.
- [3] Q: And go into the wheelhouse?
- [4] A: Yes.
- [5] Q: From where you would stand
- [6] three feet from that window to the wheelhouse,
- [7] could you actually see what was being displayed on
- [8] your radar?
- [9] A: Yes. You could see it right in
- [10] front of the window.
- [11] Q: How big was the display on that
- [12] radar?
- [13] A: Probably eight to ten inches.
- [14] Q: You indicated a rectangle with your
- [15] hands.
- [16] About eight to ten inches?
- [17] A: Yes. It was a little more taller
- [18] than it was wide, so maybe eight inches wide by
- [19] ten inches tall.
- [20] MR. SINGLETON: By the way, I
- [21] asked for the radar manual on the
- [22] other boat, for the manual. I believe
- [23] it is the one that the witness
- [24] believes is the one that went onto the
- [25] AVA CLAIRE, not just the operations

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Stepski

- [1] *Stepski*
- [2] manual, but they should have a
- [3] technical manual in there with it?
- [4] MR. HEALEY: Off the record.
- [5] (Discussion off the record.)
- [6] MR. SINGLETON: Would you mark
- [7] that as No. 2, please.
- [8] Johnson Marine Service 3/2/03
- [9] survey was marked as Exhibit No. 2 for
- [10] identification, as of this date.)
- [11] BY MR. SINGLETON:
- [12] Q: Let me show you what has been marked
- [13] as Exhibit 2.
- [14] Would you take a quick minute and
- [15] leaf through that, if you would?
- [16] A: (Perusing document.)
- [17] Q: You mentioned earlier that
- [18] Mr. Johnson came to do a survey to your boat?
- [19] MR. HEALEY: Are you finished
- [20] reading that?
- [21] Listen to the question.
- [22] Q: Are you done?
- [23] A: Yes.
- [24] Q: The Johnson survey, Johnson Marine
- [25] Service came and did a survey on your boat and

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(1) **Stepsi**
(2) basically by this document you testified he did
(3) visit the boat about when you were starting or
(4) during your repairs that you made.
(5) Is this a survey that's the result
(6) of that?
(7) A: Yes.
(8) Q: The survey itself says he conducted
(9) the survey on March 25th, after then, 3/31/2003.
(10) I believe you said you started these
(11) repairs very shortly after you acquired the boat,
(12) four days or so?
(13) A: Yes.
(14) Q: So does that mean it's fair to say
(15) you acquired the AVA CLAIRE sometime in March of
(16) 2003?
(17) A: I believe so.
(18) Q: Is it also fair to say that you
(19) hadn't done any fishing with the AVA CLAIRE yet
(20) when this inspection occurred?
(21) A: Right.
(22) Q: If we look at the photograph that's
(23) on the very front, is that the AVA CLAIRE before
(24) modifications, at least to her wheelhouse or after
(25) modifications to her wheelhouse?

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(1) **Stepsi**
(2) A: Before.
(3) Q: Do you recall whether there were any
(4) other photographs attached to this survey when you
(5) received it?
(6) A: I don't believe so.
(7) Q: Would you turn to Page 3 of 8,
(8) please — sorry, it's actually Page 4 of 8.
(9) You will see under the column Loran,
(10) it says no.
(11) Do you understand that to mean that
(12) you had no Loran fitted on this boat at this time?
(13) A: Right.
(14) Q: When did you actually install the
(15) Loran?
(16) A: I don't remember.
(17) Q: About how long before the accident?
(18) Let's work backwards.
(19) A: I really can't remember.
(20) Q: Was the EPIRB that was on this
(21) vessel on it when you acquired it?
(22) A: No.
(23) Q: So did you purchase a new EPIRB?
(24) A: No. I took that one off my little
(25) boat, the RICHARD ERIC.

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(1) **Stepsi**
(2) Q: The RICHARD ERIC?
(3) A: Yes.
(4) Q: Are the manuals for that EPIRB still
(5) on the RICHARD ERIC?
(6) A: No. I believe it went down with the
(7) boat.
(8) Q: You moved the manuals over as well
(9) to the AVA CLAIRE?
(10) A: I don't remember if there were
(11) manuals — yes. Everything I had with that I
(12) moved onto the AVA CLAIRE.
(13) Q: Tell me about the EPIRB, what type
(14) of EPIRB was it?
(15) A: 406 is the number I remember.
(16) Q: Was it an EPIRB that was, as far as
(17) you remember, that was designed to be
(18) hydrostatically activated or did it have to be
(19) manually activated?
(20) A: Manual, it was a float free. Floats
(21) activates it.
(22) Q: It doesn't have to be submerged to a
(23) certain depth in order to be activated?
(24) A: I'm not sure about that. I believe
(25) just getting wet.

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(1) **Stepsi**
(2) Q: Water activated?
(3) A: Yes.
(4) Q: But?
(5) A: Yes.
(6) Q: But it has to be free of its mount
(7) in order to be activated?
(8) A: No. It slides out if the mount goes
(9) under water.
(10) Q: Do you have any information at all
(11) left at home or on other boats regarding this
(12) EPIRB?
(13) A: I don't think so, no.
(14) I think we asked the Coast Guard if
(15) they had the model number, but I don't know if we
(16) obtained that.
(17) Q: If you turn to Page 6 of this
(18) report, under hull deck and hardware at the
(19) bottom.
(20) The very first entry talks about
(21) higher than normal moisture. And it recommends a
(22) repair of the affected cord material.
(23) Was that repair ever made?
(24) A: Yes. It was going to be the next
(25) time I hauled out.

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[1] Q: No. 2, it was recommended to install
 [2] a rudder step and it continues.
 [3] Was that repair or modification ever
 [4] made?
 [5] A: Yes.
 [6] Q: If you would go to the next page,
 [7] recommendation No. 2 regarding the electrical
 [8] wiring.
 [9] Was that done?
 [10] MR. HEALEY: Read it.
 [11] A: No. 2?
 [12] MR. HEALEY: Yes.
 [13] A: (Perusing document.) Yes.
 [14] Q: If you go down under the conclusion,
 [15] about halfway down the paragraph, it says, "It is
 [16] the surveyor's opinion that this vessel is
 [17] considered to be a good insurance risk with the
 [18] above one priorities corrected."
 [19] Was the primary reason for this
 [20] inspection insurance purposes?
 [21] A: It was a combination of insurance,
 [22] the loan and to make sure that the hull was a
 [23] good, sound hull. I wanted to know for myself.
 [24] Q: It says here she has been used as a
 [25]

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Stepski

[1] working vessel.
 [2] Do you know, by that do you know
 [3] what she had been used for before you acquired
 [4] her?
 [5] A: Lobstering.
 [6] Q: That was a lobster — I know you
 [7] said that earlier. I was wondering if by working
 [8] vessel, she was used for some other purpose?
 [9] A: Not that I know of.
 [10] Q: It continues on, "has been
 [11] maintained in below average condition."
 [12] Was that your assessment of her, as
 [13] well?
 [14] A: Yes.
 [15] Q: Did Mr. Johnson, I assume he sent
 [16] you a bill for his services?
 [17] A: Yes.
 [18] Q: I assume you paid the bill?
 [19] A: Yes.
 [20] Q: Do you have a copy of that bill?
 [21] A: I should.
 [22] MR. SINGLETON: I would ask
 [23] that a copy of that bill be produced.
 [24] MR. HEALEY: If we have it,
 [25]

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Stepski

[1] you have it.
 [2] It's Johnson's survey bill,
 [3] correct?
 [4] MR. SINGLETON: Correct.
 [5] (Whereupon, at 12:20 o'clock
 [6] p.m., a recess was taken.)
 [7] (Whereupon, at 12:30 o'clock
 [8] p.m., the deposition resumed with all
 [9] parties present.)
 [10] MICHAELA STEPSKI,
 [11] resumed and testified further as follows:
 [12] MR. SINGLETON: Would you mark
 [13] that as 3, please.
 [14] (Athearn Marine Agency survey
 [15] was marked as Exhibit No. 3 for
 [16] identification, as of this date.)
 [17] BY MR. SINGLETON:
 [18] Q: Let me show you what has been marked
 [19] as Exhibit 3.
 [20] Can you tell me what that is?
 [21] A: (Perusing document.)
 [22] Q: I can read that it's an Athearn
 [23] Marine Agency report. But for what reason was
 [24] this report done or inspection done?
 [25]

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[1] A: This is just a boat that's for sale,
 [2] a similar one to mine.
 [3] Q: So this is not your boat?
 [4] A: No.
 [5] Q: It doesn't have anything to do with
 [6] your boat?
 [7] A: No.
 [8] Q: I know it's hard to see. There is a
 [9] picture on Page 3 of a boat.
 [10] Is that your boat?
 [11] A: No.
 [12] Q: So this document has nothing to do
 [13] with any of the statistics or gear or anything
 [14] with the AVA CLAIRE, is that a correct statement?
 [15] A: Yes, that's correct. Just a similar
 [16] boat, about the same size, same engine.
 [17] Q: Did you obtain a copy of this
 [18] yourself or did somebody else obtain a copy?
 [19] A: I think I obtained this.
 [20] Q: Why did you obtain it?
 [21] A: To show my lawyers a similar boat
 [22] and value.
 [23] Q: The Loran that you put on the AVA
 [24] CLAIRE, did you purchase that new?
 [25]

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[1] **Stepski**
[2] A: No, used.
[3] Q: But you purchased it?
[4] A: Yes.
[5] Q: Do you have a bill of sale or
[6] anything for that or receipt for payment?
[7] A: I don't know if I would. I can't
[8] remember where I bought it.
[9] Q: Do you have receipts for any of the
[10] electronic gear that you installed, that you
[11] purchased and installed on the AVA CLAIRE?
[12] A: I am sure I have one for the auto
[13] pilot and the maybe the fish finder. I would have
[14] to look that up.
[15] My wife looked for most of that
[16] stuff. So she would know better.
[17] Q: Did you bring any documents with you
[18] today?
[19] A: No.
[20] MR. HEALEY: Before you leave
[21] then, I think Kirsten was indicating
[22] they probably have some.
[23] So make a note, I will get any
[24] document if that exists.
[25] MR. SINGLETON: May we mark

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[1] **Stepski**
[2] this as Exhibit 4, please.
[3] Johnson Marine Services
[4] 8/4/04 survey was marked as Exhibit
[5] No. 4 for identification, as of this
[6] date.)
[7] **BY MR. SINGLETON:**
[8] Q: I show you what we have marked as
[9] Exhibit 4, Johnson Marine Services called survey,
[10] it says at the request of Mr. Stepski.
[11] Do you see that?
[12] A: (Perusing document.) Yes.
[13] Q: Why did you make this request to
[14] Captain Ken Johnson?
[15] A: I wanted to get a value of the boat
[16] after I had done all the work that I had done to
[17] it.
[18] Q: How did Mr. Johnson know what
[19] equipment to value?
[20] A: Because I told him what I had done
[21] to the boat.
[22] Q: So you told him?
[23] In other words, you told him, "I put
[24] an auto pilot on, depth sounder, Furuno radar," so
[25] on and so forth?

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[1] **Stepski**
[2] A: Yes.
[3] Q: Because he didn't see it before the
[4] accident, did he?
[5] A: No, not just before. He had seen it
[6] at some point along the line.
[7] Q: Did he do a survey of it since his
[8] initial survey?
[9] A: No.
[10] Q: Did anybody do a survey of your
[11] vessel between the Johnson survey and when the
[12] accident occurred?
[13] A: No.
[14] Q: Did you provide Mr. Johnson with any
[15] documentation to support the various items that
[16] you wanted valued by him?
[17] A: I don't remember.
[18] I don't remember if I just told him
[19] or if I showed him.
[20] Q: If you would turn to the second page
[21] of the document, there are some hours next to the
[22] various items labeled A, B, C, D and E.
[23] Whose hours does that represent?
[24] A: That's mine.
[25] Q: In other words, you spent 120 hours

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[1] **Stepski**
[2] of your time rebuilding the wheelhouse?
[3] A: Well, I had a helper that I was
[4] paying.
[5] Q: Well, is the 120 hours just for your
[6] time or is it for your time and your helper's
[7] time?
[8] A: I don't remember how we came up with
[9] that number. I could probably find out.
[10] MR. HEALEY: If you don't
[11] remember, you don't remember.
[12] Q: It says at the bottom total hours,
[13] 460 hours times \$60 per hour, I suppose, equals a
[14] figure.
[15] And \$60 per hour, how did you arrive
[16] at that figure?
[17] A: Well, I believe we went by what that
[18] kind of work would cost if you had somebody else
[19] do it, what they would charge.
[20] Q: Where did you get that figure from?
[21] In other words, where did you get your idea of
[22] what someone else would charge?
[23] A: Just from knowing what those kind of
[24] things go for.
[25] Q: You said in response to my question

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- [1] about A, the 120 hours, or that 120 hours, whether
[2] that 120 hours included any hours for your help,
[3] you said you don't know, can't remember.
[4] Is that going to be your same answer
[5] for B, C, D and E, as well?
[6] A: Yes.
[7] Q: Is there anything you can look at
[8] that would help refresh your memory as to whether
[9] those are just your hours or whether they include
[10] a helper's hours in there?
[11] A: Is there any what?
[12] Q: Any document you can look at to help
[13] refresh your memory as to whose time is included
[14] in those hours?
[15] A: Well, this is Johnson figuring.
[16] I can probably discuss it with my
[17] wife and maybe even Mr. Johnson how we figured
[18] those hours and let you know.
[19] Q: That raises a question.
[20] Did you give Mr. Johnson the number
[21] of hours that you thought was required to do it or
[22] did he look at the job and estimate the number of
[23] hours he thought would be required to do it?
[24] A: I probably told him.

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Stepski

- [1] Q: I think you said the people that
[2] helped you were your father, your brother, and
[3] some friends?
[4] A: Yes.
[5] There was one guy that was working
[6] with me pretty steady every day.
[7] Q: Did you pay anybody for their help?
[8] A: Yes.
[9] Q: Who did you pay?
[10] A: This one guy. His name was Eugene,
[11] I don't remember the last name. I can find out
[12] though.
[13] Q: Do you remember where Eugene lives?
[14] A: I believe somewhere in Connecticut,
[15] Plainfield or something like that.
[16] Q: Do you have his address or can you
[17] get his address?
[18] A: Yes, I could probably get it.
[19] MR. SINGLETON: I would like
[20] your counsel to provide us with his
[21] full name and present address or last
[22] known address that you had for him.
[23] A: Sure.
[24] Q: How much did you pay Eugene?

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Stepski

- [1] A: There was no set pay.
[2] I didn't really do like an hourly
[3] thing. I think I paid him probably, it was always
[4] different, depending on the job. You know what I
[5] mean?
[6] Q: What did you pay him total for the
[7] work that's listed here under A, B, C, D and E on
[8] Page 2 of Exhibit 4?
[9] A: He basically did my — like I said,
[10] it would depend on each job and how long he worked
[11] throughout the day.
[12] He did a lot of the sanding. He
[13] helped me with pretty much everything on the boat
[14] when he was there. I would just kind of figure a
[15] fair pay for the day and give him.
[16] Q: Okay.
[17] Well, in total, what did you
[18] consider fair and what did you pay him?
[19] A: In total for the whole job?
[20] Q: Yes.
[21] A: I don't know, because it was just
[22] cash on a daily basis.
[23] Q: Do you have any records of that?
[24] A: No.

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Stepski

- [1] Q: You didn't withhold any tax for this
[2] guy or anything like that?
[3] A: No.
[4] Q: Is there anything you can think of
[5] that you can look at that would help you remember
[6] over the total course of the job what you paid to
[7] Eugene?
[8] A: I could probably get a rough figure,
[9] but I don't know exactly.
[10] Q: What would you look at to get your
[11] rough figure?
[12] A: If I could figure about how long we
[13] worked on the boat, how many weeks.
[14] I know I paid him at least \$50 a
[15] day. Probably get a rough idea.
[16] Q: How many days did he work?
[17] A: I don't know.
[18] Q: Is there anything you can look at to
[19] help refresh your memory as to how many days
[20] Eugene worked?
[21] A: Not in front of me here.
[22] Q: Not just here.
[23] A: Like I said, if I could figure out
[24] how long we worked on the boat, I don't know if I

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[1] have something that would show me that.
[2] I can probably figure by the time we
[3] started fishing versus the time we bought it and
[4] figure out how long he worked on the boat.
[5] I think he was with me right through
[6] the whole restoration, probably get an idea.
[7] Q: How long did the restoration take?
[8] A: That's what I don't know right now.
[9] Q: What records would you go look at
[10] for you to determine how long the restoration
[11] took?
[12] A: Well, from the time I bought the
[13] boat versus the time I started fishing?
[14] Q: What would we look at to determine
[15] when you started fishing?
[16] A: Probably when my first catch was.
[17] Q: Did you work on the boat every
[18] single day from the time you bought it until the
[19] time you went out for your fishing for the first
[20] time?
[21] A: Yes.
[22] Q: Was Eugene with you every single day
[23] that you worked on the boat?
[24] A: Not every single day, but most days.

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[1] Q: When I say every single day, I mean
[2] seven days a week, because that's when you were
[3] there.
[4] And how many days on average would
[5] you say Eugene was there?
[6] A: I think back, I think he was with me
[7] almost every day, too.
[8] Q: Are we talking about like a
[9] three-week period or a month period, do you
[10] remember?
[11] A: I think I started fishing in April.
[12] This report was done in March. So maybe a month.
[13] I don't think he finished this
[14] report for a while. So I would say at least a
[15] month we worked on it. I think it was more than
[16] that though.
[17] Like I said, from the time I bought
[18] it to the first catch.
[19] Q: Would it be fair to say Eugene
[20] probably worked about 30 days during that period
[21] of time or not fair to say?
[22] A: Yes, that would be fair to say.
[23] MR. SINGLETON: Mark that as
[24] the next exhibit, please.

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[1] (Certificate of documentation
[2] was marked as Exhibit No. 5 for
[3] identification, as of this date.)
[4] BY MR. SINGLETON:
[5] Q: Who did you purchase the AVA CLAIRE
[6] from?
[7] A: I got it through Athearn Marine
[8] Agency.
[9] The AVA CLAIRE you are asking?
[10] Q: Yes.
[11] A: I bought that from Skip Myers.
[12] Q: What was the prior name of the AVA
[13] CLAIRE when Mr. Myers operated it?
[14] A: That was THE VIKING.
[15] Q: And Skip Myers, where does he live?
[16] A: Waterford, Connecticut.
[17] Q: Is it M-e-y-e-r-s?
[18] A: It's M-y-e-r-s.
[19] Q: Was the AVA CLAIRE ever known as the
[20] fishing vessel WINTERS?
[21] A: No.
[22] Q: There have been some documents that
[23] have been produced to us and I have stapled them
[24] together and marked them as Exhibit 5.

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[1] Let me show them to you.
[2] The first page indicates a
[3] certificate of documentation for the AVA CLAIRE.
[4] It's dated April 18, 2003.
[5] And the second page has to do with
[6] this vessel, F/V WINTERS.
[7] What relationship do these documents
[8] have to the AVA CLAIRE?
[9] A: (Perusing document.) The federal
[10] fishing permits were taken off this boat and
[11] transferred to the AVA CLAIRE.
[12] Q: Fishing permits were taken off the
[13] F/V WINTERS and transferred to the AVA CLAIRE?
[14] A: Yes.
[15] Q: But did you buy the F/V WINTERS from
[16] Mr. Frye?
[17] A: I bought it and sold it right back
[18] to him. To transfer the permits, that's how it's
[19] done.
[20] Q: Explain to me exactly what you did.
[21] A: The way you buy the boat, transfer
[22] the permits and then sell the boat back to the
[23] person.
[24] Q: Couldn't Mr. Frye have transferred

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[1] *Stepski*
 [2] the fishing permits directly to you?
 [3] A: I don't believe so.
 [4] Q: Because in order to transfer a
 [5] permit, it has to be between boats under the same
 [6] ownership?
 [7] A: Yes, I think so. That's why we did
 [8] it that way.
 [9] Q: I notice that both of these
 [10] documents, Pages 2 and 3 of Exhibit 5, have the
 [11] date April, then a blank, 2003.
 [12] Was that blank ever filled in?
 [13] A: What blank?
 [14] Q: Do you see at the top, see the date
 [15] April blank, 2003?
 [16] MR. HEALEY: There is a blank
 [17] April 2003?
 [18] Q: Do you see the place?
 [19] MR. HEALEY: I agree there is
 [20] no number for a day. Whether or not
 [21] that was intended, I don't know.
 [22] I agree it doesn't have a day
 [23] number.
 [24] Do you see what he is talking
 [25] about?

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[1] *Stepski*
 [2] THE WITNESS: Yes.
 [3] Q: Let me start again.
 [4] Were these documents sent to the
 [5] National Marine Fisheries Service?
 [6] A: I would have to say so.
 [7] Q: Was a day filled in for the date
 [8] before they were sent?
 [9] A: I don't know.
 [10] Q: You say they were sent because you
 [11] were permitted to transfer the fishing permits for
 [12] the F/V WINTERS to the AVA CLAIRE; is that
 [13] correct?
 [14] A: Yes.
 [15] Q: But, in fact, you never physically
 [16] took ownership of this F/V WINTERS vessel, did
 [17] you?
 [18] A: Physically?
 [19] Q: Yes?
 [20] A: No, I guess not.
 [21] Q: Was the sale to your company and
 [22] then the resale back to Mr. Frye simultaneous, was
 [23] that the intention?
 [24] A: I'm not sure how long that took.
 [25] Q: Let me state it a different way.

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[1] *Stepski*
 [2] Did you ever intend to purchase and
 [3] own the F/V WINTERS?
 [4] A: For a long enough time to transfer
 [5] the permit.
 [6] Q: But you never operated her?
 [7] A: Right.
 [8] Q: After the permits were transferred,
 [9] you sold her back to Mr. Frye?
 [10] A: Right.
 [11] Q: How much money changed hands?
 [12] A: I don't remember.
 [13] Q: Did you pay Mr. Frye any money at
 [14] all?
 [15] A: For the permits, the whole thing,
 [16] yes.
 [17] It's really Athearn.
 [18] Q: But you paid Mr. Frye for the
 [19] permits, but did you pay him for the boat?
 [20] A: I believe so.
 [21] Q: Do you have checks for this or
 [22] evidence of this?
 [23] A: I should. I don't know.
 [24] MR. SINGLETON: I would like
 [25] evidence of the actual payment.

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[1] *Stepski*
 [2] MR. HEALEY: Is there any
 [3] relevance to any of this?
 [4] Will you tell me why you are
 [5] doing it?
 [6] MR. SINGLETON: Yes, but I'm
 [7] not going to tell you in front of the
 [8] witness. I will tell you later.
 [9] Q: This whole transfer with Mr. Frye
 [10] was arranged through his broker, Athearn?
 [11] A: Yes.
 [12] Q: Let's go to the very last page where
 [13] it says indemnity.
 [14] Do you know whose signature appears
 [15] here over the box witness?
 [16] A: No.
 [17] Q: This indemnity, do you know was this
 [18] also given to the National Marine Fisheries?
 [19] A: I don't know.
 [20] Q: If you would turn to the fourth page
 [21] of the document, it's the U.S. Department of
 [22] Commerce Marine Fisheries Service vessel
 [23] application.
 [24] That's your signature that appears
 [25] at the bottom there?

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(1) *Stepski*
 (2) A: Yes.
 (3) Q: If you go to the next two pages
 (4) after that, it says general information.
 (5) Is this your signature that appears
 (6) there, as well?
 (7) A: Yes.
 (8) Q: If you would go a little further
 (9) over into the document, there is a law firm's
 (10) letterhead here, I don't think I will be able to
 (11) pronounce it, Cianciulli, C-i-a-n-c-i-u-l-l-i and
 (12) Ouellette?
 (13) A: Ouellette.
 (14) Q: Are they your lawyers?
 (15) A: Yes. They worked with me through
 (16) this.
 (17) Q: If you turn one more page, there is
 (18) next to initial cash exchange or replacement of
 (19) documentation, redocumentation.
 (20) Is that your signature on the second
 (21) page of that application?
 (22) A: Yes.
 (23) Q: What is the name of your company
 (24) that owned the AVA CLAIRE?
 (25) A: Niantic Fish, LLC.

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(1) *Stepski*
 (2) Q: It's an LLC.
 (3) Who are the shareholders in the LLC?
 (4) A: Shareholders? I think I'm the sole
 (5) member.
 (6) Q: Do you have officers or directors?
 (7) A: No.
 (8) Q: Outside of the AVA CLAIRE, did
 (9) Niantic Fish own any other assets or have any
 (10) other assets?
 (11) A: I don't believe so.
 (12) Q: With the loss of the AVA CLAIRE,
 (13) were you able to transfer the fishing permits to
 (14) one of the other vessels?
 (15) A: Yes.
 (16) Q: Did you do that?
 (17) A: Yes.
 (18) Q: Which vessel now has those permits?
 (19) A: MADELINE RUTH.
 (20) Q: Niantic Fish were the registered
 (21) owners of the AVA CLAIRE?
 (22) A: Documented owners, yes.
 (23) Q: I have one other question on this.
 (24) I think we will break for lunch.
 (25) MR. SINGLETON: Would you mark

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(1) *Stepski*
 (2) this, please.
 (3) (Insurance binder was marked
 (4) as Exhibit No. 6 for identification,
 (5) as of this date.)
 (6) BY MR. SINGLETON:
 (7) Q: Let me show you what we have marked
 (8) as Exhibit 6. That's titled insurance binder.
 (9) Is this actually a copy of the
 (10) policy of insurance that you had for the AVA
 (11) CLAIRE?
 (12) A: I believe so.
 (13) Q: You do or you don't?
 (14) A: I do believe so.
 (15) Q: Looks like for hull and machinery
 (16) you had an insured value of \$35,000; is that
 (17) correct?
 (18) A: Yes.
 (19) Q: After you made your modifications to
 (20) the vessel, did you attempt to increase the amount
 (21) of insurance?
 (22) A: No.
 (23) Q: Why not?
 (24) A: Well, I wasn't done with all the
 (25) work I wanted to do to it.

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(1) *Stepski*
 (2) Q: You mean even after you made the
 (3) modifications, you weren't done with everything
 (4) you wanted to do with it?
 (5) A: Yes. There were still further
 (6) improvements I wanted to do with the boat.
 (7) I was going to wait until I finished
 (8) off the fish hold and put a generator in and just
 (9) redo the insurance then, have another survey done.
 (10) Q: Finish off down below?
 (11) A: I wanted to build cabinets and all
 (12) that.
 (13) Q: That may be so, but your insurance
 (14) was up for renewal every year, wasn't it?
 (15) A: Yes.
 (16) Q: Why didn't you, at the renewal time
 (17) at least increase it enough to cover the work that
 (18) you had already done?
 (19) A: Because I would have to pay for
 (20) another survey.
 (21) Q: Yes. You probably would have to pay
 (22) a higher premium, too?
 (23) A: Yes.
 (24) Q: So you made a conscious decision not
 (25) to increase the insurance?

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(1) *Stepski*
 (2) A: Well, my decision was to increase
 (3) insurance once I finished all the work I wanted to
 (4) do.
 (5) Q: My question is, you made a conscious
 (6) decision not to increase the insurance before you
 (7) completed all the work that you wanted to do?
 (8) MR. HEALEY: Do you understand
 (9) him?
 (10) THE WITNESS: Yes, I do.
 (11) A: Yes, I guess so.
 (12) Q: If you would look at this policy, it
 (13) also indicates you got a million dollars
 (14) protection indemnity insurance.
 (15) Do you understand what that is,
 (16) protection indemnity?
 (17) A: If I am sued.
 (18) Q: If you are sued.
 (19) Look at the effective date of the
 (20) insurance and the expiration date. According to
 (21) the policy here, it's effective April 4, 2003, and
 (22) it expires April 4, 2004, which was about four or
 (23) six weeks or so before the accident.
 (24) That's all that has been produced.
 (25) Was the policy renewed?

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(1) *Stepski*
 (2) A: Yes.
 (3) Q: Do you have a copy of the binder for
 (4) the renewal?
 (5) A: I should.
 (6) MR. SINGLETON: I would like a
 (7) copy of that renewal produced.
 (8) Q: Do you know when you renewed it if
 (9) you increased the hull insurance from \$35,000 to
 (10) some greater amount?
 (11) A: I don't believe.
 (12) Q: Because of your decision not to
 (13) increase the insurance before you finished all the
 (14) work you wanted to do; is that right?
 (15) A: Yes.
 (16) Q: It says here on the insurance,
 (17) operation of property description. It says
 (18) inshore and then C/F/V.
 (19) What does the C stand for,
 (20) commercial?
 (21) A: I don't know.
 (22) MR. HEALEY: Where are you
 (23) looking?
 (24) MR. SINGLETON: Under
 (25) operation of property description.

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(1) *Stepski*
 (2) Q: What do you understand inshore to
 (3) be?
 (4) A: Inshore, meaning not to — I don't
 (5) know what they consider inshore, but distance.
 (6) Q: You don't know what that distance is
 (7) off land, where the shore stops and the offshore
 (8) begins?
 (9) A: No.
 (10) Q: When you took out the insurance,
 (11) where did you tell the insurance company you were
 (12) going to be fishing?
 (13) A: I believe I told them all the way
 (14) from New Jersey to Massachusetts.
 (15) Q: How far did you tell them you
 (16) intended to go off the coast?
 (17) A: I don't remember.
 (18) Q: Did the insurance company, have you
 (19) been paid yet on the hull and machinery policy?
 (20) A: Yes.
 (21) Q: So you have received how much from
 (22) the insurance company?
 (23) A: It was just 35,000.
 (24) Q: They didn't withhold the deductible?
 (25) A: Deductible.

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(1) *Stepski*
 (2) Q: You have a \$2,500 deductible on your
 (3) insurance policy?
 (4) A: I don't remember.
 (5) Q: Well, how did you get paid, in the
 (6) form of a check?
 (7) A: Yes.
 (8) Q: Do you have a copy of that check?
 (9) A: I don't know if we saved a copy. I
 (10) probably have it.
 (11) Q: When you received the check, did you
 (12) make a deposit of that check into a bank account?
 (13) A: Actually, no.
 (14) We gave it to Sector that financed,
 (15) meaning the company that financed me. And he held
 (16) it until he got the boat.
 (17) Q: You endorsed it over to him?
 (18) A: Yes.
 (19) Q: Was the check made payable to you or
 (20) made payable to Sector?
 (21) A: I don't remember.
 (22) Q: But your recollection was it was a
 (23) \$35,000 check?
 (24) A: Yes.
 (25) Q: As part of payment of that check,

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[1] did you have to sign anything such as a
[2] subrogation receipt or any other kind of document
[3] from the insurance company presented to you?

[5] A: I don't remember.

[6] MR. SINGLETON: Why don't we
[7] take your lunch break.

[8] (Whereupon, at 1:10 o'clock
[9] p.m., a luncheon recess was taken.)

[10]
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[1] Q: Schedule, it says for AVA CLAIRE at
[2] the very bottom, basically navigation at the end
[3] of that paragraph, not to exceed 20 miles
[4] offshore?

[6] MR. HEALEY: It does say that,
[7] we agree.

[8] Did you put a question to him?

[9] Q: I thought I did. Let me refer you
[10] to that.

[11] My question is, were you aware of
[12] this restriction in the policy?

[13] A: No.

[14] Q: The place where the incident
[15] occurred, were you more than 20 miles offshore?

[16] A: Yes.

[17] Q: You mentioned the keel, that you had
[18] replaced the keel on the AVA CLAIRE?

[19] A: Yes. Skeg.

[20] Q: Just the skeg?

[21] A: Yes.

[22] Q: If you would, would you sort of draw
[23] for me, I'm going to give you a piece of paper,
[24] the bottom of the vessel.

[25] On the side view, just show me what

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*Stepsiki***AFTERNOON SESSION**

[1] November 9, 2006
[2] 2:05 o'clock p.m.
[3] MICHAEL A. STEPSKI, having
[4] been previously duly sworn, was examined
[5] and testified further as follows:

BY MR. SINGLETON:

[7] Q: Who is the policyholder?

[8] A: Niantic Fish.

[9] Q: Your insurance, right, apart from
[10] what inshore and offshore means, were you aware
[11] whether there was a limit as to how far you could
[12] go away from land under that policy?

[13] A: I don't know. I don't remember
[14] there being a limit.

[15] Q: Did you read the policy to see if
[16] there was a limit or did your broker explain that
[17] to you?

[18] A: I believe he went through the whole
[19] thing.

[20] Q: If you would turn to Page 4 of the
[21] exhibit, Exhibit 6?

[22] MR. HEALEY: I don't think you
[23] are on the right page.

[24]
[25]

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[1] it is that you actually replaced.

[2] A: Indicating it's about here. At the
[3] end of the keel, the prop here and just this bit
[4] here I replaced (indicating).

[5] MR. SINGLETON: The witness
[6] has made a drawing on a piece of lined
[7] paper.

[8] Q: You want to just label that skeg?

[9] A: Okay.

[10] Q: How long of a piece was this in real
[11] life?

[12] A: It was probably, I would say, about
[13] close to two to three feet.

[14] Q: What was the depth of it?

[15] A: The width of it?

[16] Q: Yes, the vessel is sitting from the
[17] water, from top to bottom.

[18] MR. HEALEY: I don't follow
[19] you.

[20] Q: The vessel sitting in the water,
[21] from the part that is closest to the propeller to
[22] the part that's closest to the bottom of the boat?

[23] A: It was only about 23 inches, a piece
[24] of the channel.

[25]

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[1] Q: How did you affix a new skeg to the
[2] structure of the vessel?
[3] A: There is a channel and welded
[4] plates. There was four of them to the side of it
[5] going up, and bolt it right through the keel.
[6] Q: Can you just put little lines where
[7] you bolted it?
[8] A: The plate ran all the way up here.
[9] This is where it went past, where the old skeg was
[10] cut off.
[11] Q: Did the new skeg extend farther than
[12] the old skeg did?
[13] A: No, the same.
[14] Q: The same? And what size bolts did
[15] you use, what diameter bolts?
[16] A: They were probably
[17] three-quarter-inch stainless bolts.
[18] Q: Did you thread the holes so that
[19] they would bolt into something on the vessel or
[20] did you put nuts on them?
[21] A: We put nuts and bolted it to the
[22] other side of the plates on the other side, so
[23] there were plates on either side of that coming up
[24] the side of the keel.
[25]

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[1] Then we bolted right through the
[2] keel into the next plate.
[3] Q: So you sort of straddled the keel
[4] with this thing?
[5] A: Yes.
[6] Q: And the bolt went right through one
[7] plate through the keel, but the other plate, then
[8] a bolt, then a nut to tighten it down?
[9] A: Yes.
[10] Q: How many bolts were there?
[11] A: One in each one.
[12] Q: One of those plates?
[13] A: Yes.
[14] Q: Then the way you have drawn the
[15] plates, that's the orientation top to bottom the
[16] way they would fit in?
[17] A: Yes.
[18] Q: Why is it that you replaced the old
[19] one? What was wrong with the old one?
[20] A: There was some delamination on the
[21] end of it and I didn't like it the way it was.
[22] And rather than refiberglass, I thought that it
[23] would be better to just put a nice solid steel
[24] piece in its place. It seemed a little safer to
[25]

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[1] me.
[2] Q: You drilled holes, I guess?
[3] A: Yes.
[4] Q: How far were those bolt holes apart,
[5] how much distance between the bolts?
[6] A: Each plate was six inches wide. And
[7] I think there was six inches between each plate,
[8] so the bolts would be a foot.
[9] Q: A foot apart?
[10] A: About a foot apart, yes.
[11] MR. SINGLETON: Ms. Reporter,
[12] please mark that as an exhibit,
[13] please.
[14] (Diagram of repair was marked
[15] as Exhibit No. 7 for identification,
[16] as of this date.)
[17] BY MR. SINGLETON:
[18] Q: Since your artwork looks worthy of
[19] replication, what I would like you to do now is we
[20] had the photographs of your vessel, of the AVA
[21] CLAIRE, but they really don't give you a good
[22] plain view down top of it, like a bird's eye view
[23] looking down, of how it was laid out, where you
[24] had your fish pens and tables.
[25]

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[1] Could you draw that diagram?
[2] Doesn't have to be to scale, just as close as you
[3] can, an accurate depiction what it looked like?
[4] A: Transom here would be the first set
[5] of pen boards coming across.
[6] The second set of pen boards, of
[7] course, we have the pens set up so there's three,
[8] three pens here. Cabin wall, split. The hull
[9] right up in the corner, hauler right up in the
[10] corner here. Another set of pen boards running
[11] right here and here.
[12] I would stand right here.
[13] MR. HEALEY: Just lay the ship
[14] out for him and get a question.
[15] A: This being a fish pen, you would
[16] have one here, the doorway right here.
[17] Is that enough?
[18] Q: Where is the table you have talked
[19] about?
[20] A: The table would run basically from
[21] here.
[22] Q: Looks like you have six fish pens?
[23] A: This was just a standing area. This
[24] was another pen.
[25]

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[1] Q: So you have five pens.
[2] Can you label your hauler as a
[3] hauler, draw an arrow to it or write in there
[4] either way?
[5] A: (Witness complies.)
[6] MR. HEALEY: Just stick to
[7] what you are being asked.
[8] Q: Can you label the two rollers as
[9] just rollers?
[10] A: There was actually just one roller.
[11] Q: Now, I would like you to draw what
[12] you haven't drawn on here yet is a, just indicate
[13] where the window was. Maybe we will do that in
[14] color.
[15] Can you use the blue pen and sort of
[16] superimpose with a small line where the window
[17] was?
[18] A: Here (indicating.)
[19] Q: And now the door?
[20] A: There is another window right in
[21] this area.
[22] MR. SINGLETON: I am going to
[23] label so we don't forget what these
[24] are. Agreed?
[25]

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[1] MR. HEALEY: Yes. That's what
[2] you drew, right?
[3] THE WITNESS: Yes.
[4] MR. HEALEY: Agreed.
[5] MR. SINGLETON: I have labeled
[6] door. And I'm going to put just a P
[7] in each one of the fish pens, just to
[8] signify pen.
[9] Q: This area is open. Is that a
[10] working area?
[11] A: Yes.
[12] Q: That's the area between the pens and
[13] the transom, there are just decks?
[14] A: There is a setting bar.
[15] Q: What is a setting bar?
[16] A: In one of the pictures you could see
[17] part of it.
[18] Q: You want to draw it with your
[19] pencil?
[20] Let's go to the photographs, Exhibit
[21] I.
[22] A: Pipes coming up, one across this
[23] piece here, and there also is a lower part that is
[24] crossing. It bolts right to the transom.
[25]

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Stepski

[1] MR. HEALEY: What did you call
[2] that?
[3] THE WITNESS: Setting bar.
[4] Q: What you have drawn here, it's kind
[5] of hard to get it that way, so with your
[6] permission, I will shade it across pencil marks
[7] and I will write on it table.
[8] Is that accurate as drawn?
[9] MR. HEALEY: As we said, it's
[10] not to scale or anything like that.
[11] Just to be fair, because we
[12] will try to get something else at some
[13] point to be really accurate.
[14] He is drawing to give us the
[15] location of things in his best
[16] recollection; is that correct?
[17] THE WITNESS: Yes.
[18] Q: I appreciate it's not to scale, but
[19] have you tried to roughly proportion things at
[20] least in relative proportion to others?
[21] A: Yes.
[22] It's a little bit wider than it
[23] should be.
[24] Q: But the pens, for example, are
[25]

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Stepski

[1] roughly proportional, the middle one being larger,
[2] the two side ones being a little narrower?
[3] A: Yes.
[4] Q: The rough approximate position of
[5] the table is about right in relation to where the
[6] wheelhouse is and the doors and the windows; isn't
[7] that correct?
[8] A: Yes.
[9] Q: And you before indicated where you
[10] would stand.
[11] What I would like you to do, if you
[12] would label that, just draw an arrow to it, put
[13] me.
[14] A: (Witness complies.)
[15] Q: When you are hauling, that's where
[16] you indicated the position "me," that's your usual
[17] position, correct?
[18] A: I guess, yes.
[19] Q: Where do the other two guys, when
[20] you are hauling, usually stand?
[21] A: Usually right here or sometimes one
[22] will stand in one of these pens.
[23] Q: But usually they stand where you put
[24] the first two circles.
[25]

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(1) *Stepski*
 (2) Can you just label that crew?
 (3) A: (Witness complies.)
 (4) Q: We understand that by crew that's
 (5) their usual position, but sometimes they may go
 (6) down into one of the pens, the middle pen.
 (7) And why do they do that?
 (8) MR. HEALEY: Go into the pen?
 (9) A: To straighten the nets out as they
 (10) come off the table.
 (11) Q: From the place you stand, I believe,
 (12) I think you have already told us that the distance
 (13) from where you usually stand to the window in the
 (14) wheelhouse is about three feet?
 (15) A: Yes.
 (16) Q: What is the distance from the window
 (17) to the radar unit?
 (18) A: That's probably another three feet.
 (19) Q: Can you just indicate something? I
 (20) don't know how you want to do it.
 (21) A: With a dash.
 (22) Q: Show us on the dash with a box where
 (23) the radar is located.
 (24) A: About here (indicating).
 (25) Q: I will label this line called the

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(1) *Stepski*
 (2) dashboard?
 (3) A: Well, it's the forward bulkhead and
 (4) the dash would be on top of that line.
 (5) Q: That's forward bulkhead, FWD
 (6) bulkhead. I will label that as the forward
 (7) bulkhead.
 (8) And this is the radar?
 (9) A: Yes.
 (10) Q: And the distance from the face of
 (11) the radar to the window is about three feet, you
 (12) would say?
 (13) A: I guess.
 (14) MR. SINGLETON: Would you mark
 (15) that as the next exhibit, please.
 (16) (Diagram of ship's layout was
 (17) marked as Exhibit No. 8 for
 (18) identification, as of this date.)
 (19) BY MR. SINGLETON:
 (20) Q: So when you are hauling nets, is
 (21) there generally a net on the table?
 (22) A: Well, a part of a net will be on the
 (23) table. They are constantly being slid off the
 (24) table in that pen or one of the other two,
 (25) normally this one.

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(1) *Stepski*
 (2) Q: Pointing to the center, the large
 (3) pen?
 (4) A: Yes. As they are pulled, the fish
 (5) are being picked out at the table and the net is
 (6) being pushed into the pen.
 (7) Q: So on the table there is part of a
 (8) net, usually when the nets are being pulled they
 (9) are full of fish?
 (10) A: Yes.
 (11) Q: Crew members taking the fish out of
 (12) the net?
 (13) A: Yes.
 (14) Q: When the crew members are stationed
 (15) in their position, can they see the radar?
 (16) A: Yes, they can, right through this.
 (17) Q: Let's call it through what is called
 (18) the window at the centermost of the vessel?
 (19) A: Yes.
 (20) Q: Did you radar have a hood on it? Do
 (21) you know what I mean by a hood?
 (22) A: Yes.
 (23) Q: And it did?
 (24) A: Yes.
 (25) Q: That's to cut down sun glare?

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(1) *Stepski*
 (2) A: Yes.
 (3) Q: How far up did the sides of that
 (4) hood stick past the face?
 (5) A: I would say three, four inches.
 (6) Q: When you are working nets, is it
 (7) generally you leave your engines on?
 (8) A: Yes.
 (9) Q: How many engines did the AVA CLAIRE
 (10) have?
 (11) A: One.
 (12) Q: You leave your engine on, but you
 (13) have the engine in neutral?
 (14) A: Yes. And while we are heading out,
 (15) the gear is constantly running up on the nets.
 (16) The net is close to a mile long and
 (17) we are just working our way to the other end very
 (18) slowly in and out of gear.
 (19) Q: So your vessel is traveling in the
 (20) direction that the net is laid out?
 (21) A: Yes. But it's almost a stop-go, it
 (22) stays a while.
 (23) MR. HEALEY: Just the
 (24) direction he is asking.
 (25) Is it correct that you are

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[1] **Stepski**
[2] traveling in that direction?
[3] **THE WITNESS:** Yes. That's the
[4] direction.
[5] **Q:** That's correct? What I said is
[6] correct?
[7] **A:** Yes.
[8] **Q:** And as you move down the net with
[9] your vessel, if I understand you, you are
[10] engaging, disengaging the engine?
[11] **A:** Uh-huh.
[12] **Q:** Physically how does that work? I
[13] see that when you are hauling nets you are
[14] stationed out here where you indicated the "me"
[15] position on Exhibit 8.
[16] You also have to go in, I guess, in
[17] order to work the throttle.
[18] **A:** No. There is a whole set of
[19] controls in front of me here.
[20] **Q:** You can operate from right there?
[21] **A:** Yes, all the controls.
[22] **Q:** All the controls are there in front
[23] of you?
[24] **A:** The shifter, the transmission, the
[25] throttle and the valve for the hydraulic to run

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[1] **Stepski**
[2] the hauler and the steering wheel.
[3] **Q:** If you are there, you wanted to go
[4] full ahead, you could do it right from that
[5] position?
[6] **A:** Yes.
[7] **Q:** Could you go full astern that
[8] position?
[9] **A:** Yes.
[10] **Q:** So anything you would do inside the
[11] wheelhouse as far as the engine and steering the
[12] vessel, you can do from this, let's call it
[13] auxiliary position, control position?
[14] **A:** Yes.
[15] **Q:** Can you now draw in on our diagram
[16] where that auxiliary control position is?
[17] **A:** (Witness complies.)
[18] **Q:** If the auxiliary —
[19] **MR. HEALEY:** We can use that
[20] term.
[21] I think we all understand what
[22] you mean.
[23] **A:** There was a box basically built
[24] right between the hauler and the roller with the
[25] controls on it.

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[1] **Stepski**
[2] **Q:** Drawing the box in on the diagram.
[3] Let me draw you a line to that aux for auxilliary,
[4] and label that control.
[5] **MR. SINGLETON:** What I am
[6] going to start now is I'm going to
[7] start getting into actually what
[8] happened.
[9] I assume Mr. Geal could
[10] excuse himself.
[11] **MR. STEVENS:** Do you have a
[12] place he could go?
[13] Off the record.
[14] (Discussion off the record.)
[15] (Whereupon, Mr. Roderick
[16] leaves the room.)
[17] **BY MR. SINGLETON:**
[18] **Q:** What time did you leave on the
[19] morning of May 22nd to go out to start fishing?
[20] **A:** I believe it was 4:30, maybe 4:38,
[21] if I remember correctly.
[22] **Q:** You were going to a location that
[23] you already knew that you were going to proceed
[24] to, is that correct, because you knew your nets
[25] were there?

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[1] **Stepski**
[2] **A:** Yes.
[3] **Q:** How were you navigating to that
[4] position?
[5] **A:** On that boat I would go by the chart
[6] plotter and I would put the cursor on the first
[7] flag and run a course from where we were to the
[8] nets, go to cursor.
[9] **Q:** By on the first flag, you mean the
[10] first flag on the highfliers?
[11] **A:** Yes.
[12] **Q:** The highfliers are the poles that
[13] mark the position of your nets?
[14] **A:** Yes.
[15] **Q:** Is that the position you generally
[16] start on, you pick it up at the highflier and then
[17] start moving along the net from there?
[18] **A:** Yes.
[19] **Q:** You said you left at 4:38 a.m.?
[20] **A:** I believe that's what it was.
[21] **Q:** That's a pretty precise time?
[22] **A:** Well, we have to call in to the
[23] Fisheries. We have the exact.
[24] **Q:** That's the time you left the dock,
[25] all lines off, in other words?

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[1] Stepski
[2] A: Yes.
[3] Q: Is that what you told the Coast
[4] Guard?
[5] A: Yes. If that's the right time. I
[6] looked it up in the log to make sure.
[7] MR. HEALEY: That is what you
[8] told the Coast Guard?
[9] Just listen to Richard's
[10] question.
[11] A: Yes, I believe that's what I told
[12] him.
[13] Q: You said you looked it up in the
[14] log. What log are you talking about?
[15] A: We didn't have a log for that trip.
[16] I went by the time I called in, which they have
[17] recorded.
[18] Q: Which the National Fisheries Service
[19] has recorded?
[20] A: Yes.
[21] Q: How long did it take you to get from
[22] when you left the dock to where you were at the
[23] first highflier?
[24] A: It was roughly six hours.
[25] Q: What did you do when you got to the

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[1] Stepski
[2] first highflier?
[3] A: We started hauling.
[4] Q: By hauling, you mean hauling in your
[5] nets?
[6] A: Yes.
[7] Q: Now tell me about the nets.
[8] How long were each of these nets
[9] that you had out?
[10] A: We had two 300-foot nets tied
[11] together. They were long.
[12] Q: You mean you had nets tied together
[13] that totaled 2,300 feet?
[14] A: Yes — wait. No. 300-nets, 20 of
[15] them in a row, so 300-foot nets.
[16] MR. HEALEY: Times 20?
[17] A: 6,000.
[18] Q: 6,000 feet. That's just one string?
[19] A: Yes.
[20] Q: How many strings did you have?
[21] A: We had seven at the time.
[22] Q: And each string is marked with a
[23] highflier?
[24] A: Yes.
[25] Q: We will get to this in a minute.

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[1] Stepski
[2] These nets, were they pretty much
[3] positioned in a row?
[4] A: I had them staggered a little.
[5] The first, one string would be in a
[6] row, the next string would be staggered. I had
[7] them all staggered.
[8] Q: How did you work these? Did you
[9] work them from south to north, west to east?
[10] A: West to east.
[11] Q: How long did it take you to haul in
[12] the first string?
[13] A: I think it took us around two hours.
[14] Q: After you have hauled in the first
[15] string, then I take it, what's at the tail end of
[16] these, this highflier at one end, what's on the
[17] other?
[18] A: An anchor and highflier.
[19] Q: You then turn around, do you start
[20] going from east to west or do you go back and
[21] start west to east again?
[22] A: No. We set it back from east to
[23] west.
[24] Q: When you started going from east to
[25] west, that was on the second string?

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[1] Stepski
[2] A: Say that again.
[3] Q: When you finished with the first
[4] string, did you just then work the next string in
[5] the row or next closest?
[6] A: We set the first one back and then
[7] went to the next one.
[8] Q: When you set the first one back, do
[9] you then just work in reverse where you ended up
[10] pulling the net until you lay it down and go back,
[11] in this case you had gone from west to east, do
[12] you then lay the net back going from east to west?
[13] A: Yes.
[14] Q: Then you move to the next net?
[15] A: Right.
[16] Q: When you say the two hours then to
[17] haul in the first net, does that include hauling
[18] it in, getting the fish out of it, and then
[19] putting it back down on the bottom?
[20] A: That's kind of a guess. It is
[21] usually one to two hours, then setting it back is
[22] another 15 to 20 minutes, maybe as much as a half
[23] hour.
[24] Q: How long did it take on that day, on
[25] May 22nd?

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Stepski

- (1)
(2) A: I would have to say almost two hours
(3) to haul it and maybe 20 minutes to set it back.
(4) Q: After you set it back, then you
(5) started on the next string in line?
(6) A: Yes.
(7) Q: How much of a time passed, if any
(8) appreciable time, from when you finished setting
(9) No. 1 back and before you started hauling No. 2?
(10) A: Very short. As long as it took to
(11) get there, which was on the east end of the first
(12) string.
(13) Q: Five minutes?
(14) A: Probably about five to ten minutes.
(15) Ten minutes.
(16) Q: If I understood the sequence of
(17) events, about how long after you started hauling
(18) the second string did this accident occur?
(19) A: It was in the beginning of it, maybe
(20) the first third of the string, I would say.
(21) Q: Well, it might be the first third of
(22) the string, but how much time did you spend
(23) between when you started heaving, hauling the
(24) second string and when the accident occurred?
(25) A: Maybe 20 minutes, a half hour,

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Stepski

- (1) something like that. That's almost more of a
(2) guess. I don't really know exactly.
(3) Q: Did the Coast Guard ask you
(4) questions like this at the time?
(5) A: Yes.
(6) Q: Was your recollection clearer when
(7) the Coast Guard asked you these questions?
(8) A: Probably. Because it was soon
(9) after.
(10) Q: The answers that you gave to the
(11) Coast Guard, you believed them to be true when you
(12) gave them?
(13) A: Yes.
(14) Q: I believe you said that with the
(15) exception of the issue with Mr. Schober and
(16) drinking beer, that you didn't see anything else
(17) in the Coast Guard report and the statement of
(18) facts that you thought was incorrect, is that also
(19) true?
(20) A: Yes. That's true.
(21) Q: So I just want to recap the times
(22) and correct me if there is something wrong.
(23) You believe you left at 4:38 a.m.
(24) from the dock?
(25)

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Stepski

- (1) A: Uh-huh.
(2) Q: And that you were under power for
(3) six hours to arrive at the first string?
(4) A: Uh-huh.
(5) Q: You started, immediately started to
(6) haul in the first string and that took about two
(7) hours?
(8) A: Yes. Give or take.
(9) Q: Then what do you call them, you lay
(10) it back down?
(11) A: Reset.
(12) Q: Reset the string. And that took, I
(13) think you said, 15 to 20 call it, you said 20
(14) minutes; is that right?
(15) A: Yes. That's probably about right.
(16) You have to keep it 15 to 20, depends on each one.
(17) Q: Would you say 15 to 30 would be --
(18) A: Yes, that could be true. As much as
(19) 30. Because the crew has to retie the net back on
(20) and then position myself.
(21) Q: Is it unlikely it was more than 30
(22) minutes to reset the string?
(23) A: Yes.
(24) Q: Then it's about 20 minutes to get to
(25)

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Stepski

- (1) your next string, correct, right? Then you said
(2) you were about 20 minutes to a half hour into
(3) hauling the second string when the collision
(4) occurred?
(5) A: I think so, but I don't remember
(6) exactly how long it took. I can't keep track of
(7) them.
(8) Q: On this particular day in question,
(9) you, when the nets are being hauled, were you in
(10) the same position you have indicated here on
(11) Exhibit 8, that is your usual position?
(12) MR. HEALEY: Are we talking --
(13) generally?
(14) Q: When you were hauling the nets on
(15) that day, the second string up until the
(16) collision, were you in about the position that you
(17) have indicated on Exhibit 8?
(18) A: I also came around and into the
(19) wheelhouse a few times.
(20) Q: We will get to that. I just want to
(21) verify that you didn't do anything out of the
(22) ordinary, let's put it that way, on that day?
(23) A: No. Out of the ordinary.
(24) Q: Up to, of course, when events
(25)

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[1] Stepski
[2] started to occur.
[3] I know that you saw the radar
[4] target, at least that's what you told the Coast
[5] Guard.
[6] Up until that started to happen, was
[7] this an ordinary day for you?
[8] A: Yes.
[9] Q: How about the crew members? Were
[10] your crew members in the position, generally
[11] speaking, that you have indicated on Exhibit 8?
[12] A: Yes.
[13] Q: Is it your practice, as you are
[14] hauling this, to periodically go into the
[15] wheelhouse to check things?
[16] A: Usually about, not every string, but
[17] once per string I will go out to it.
[18] Q: Did you follow that procedure up
[19] until you saw the radar target, did you follow
[20] that procedure on May 22nd?
[21] A: You asked me if I went into the
[22] wheelhouse before I saw the target on the radar?
[23] Q: Let's start again.
[24] You were in the wheelhouse, I take
[25] it, as you navigated up to the first highflier to

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[1] Stepski
[2] pick up the first string?
[3] A: Yes.
[4] Q: You left the wheelhouse and took up
[5] your position labeled as me?
[6] A: Yes.
[7] Q: I guess you assisted in getting up
[8] the hauler?
[9] A: I run the hauler.
[10] Q: You operate the hauler?
[11] A: Yes.
[12] Q: As you are moving down the nets, you
[13] are steering, you are using your engine and you
[14] are running the hauler?
[15] A: Yes.
[16] Q: To run the hauler, what is it, a
[17] lever, like a tension kind of lever?
[18] A: Not so much tension, it's just a
[19] lever that you turn to make it go, it goes faster
[20] the more you turn. Stage of the lever.
[21] MR. STEVENS: Keep your voice
[22] up. I can't hear you.
[23] Q: The hauler, as you described
[24] earlier, it's like a disk, if you will, the net
[25] comes up the roller, and does it go completely,

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[1] Stepski
[2] once completely around the hauler or semi —
[3] A: Yes.
[4] Q: But the lever you used, can that
[5] control how much pull you put on the nets that you
[6] are bringing in, that you are hauling in?
[7] A: To control the speed, but not
[8] tension, is that what you are asking me?
[9] Q: Speed might be the same.
[10] Let me state it a different way.
[11] Is the hauler such that you can
[12] actually haul the net in faster than the boat is
[13] moving forward and somehow put a strain on things?
[14] A: Well, as the slack in the net
[15] decreases — as you lose slack in the net, it gets
[16] tight, that's when I kick it a gear, kick the boat
[17] in gear so the hauler can keep hauling the net.
[18] If it got too tight, the hauler
[19] wouldn't be able to haul it. The boat has to be
[20] moving along the net in order for the hauler to be
[21] able to pull it in.
[22] Q: Optimally then you as captain of the
[23] boat, your job, one of the things you have to
[24] coordinate is you coordinate the speed of your
[25] boat with the speed of the hauler?

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[1] Stepski
[2] A: Yes.
[3] Q: So you don't get too much slack in
[4] the net or you don't get too much tension in the
[5] net?
[6] A: Right.
[7] Q: You control the speed of the boat by
[8] the throttle of the boat or taking it out of gear;
[9] is that correct?
[10] A: Yes.
[11] Q: You control the speed of the hauler
[12] by the lever?
[13] A: Yes.
[14] Q: Of the motor?
[15] A: Yes, hydraulic motor.
[16] Q: That's an electric hydraulic motor
[17] powered off the generator?
[18] A: It was a, it was a belt off the
[19] front of the engine that ran the hydraulic pump up
[20] so the haul goes up to the hauler.
[21] Q: If you moved too fast with both the
[22] hauler and the forward speed of your vessel, does
[23] this create any kind of problems with what your
[24] crew is doing, trying to retrieve the net, get the
[25] fish out?

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Stepsiki

[1] A: If I move too fast with the hauler?
 [2] Q: Yes.
 [3] A: Yes. We would get backed up. You
 [4] would have more nets on the table waiting to be
 [5] picked.
 [6] I try to keep it so that there is
 [7] very minimal net on the table and there is a
 [8] constant flow. We are constantly pushing it
 [9] picking the fish.
 [10] Q: Do you watch your crew to see how
 [11] fast they are actually cleaning the fish out of
 [12] the net?
 [13] A: Basically. They are right in front
 [14] of me.
 [15] Q: I am trying to get a sense of what
 [16] you have to be doing, your responsibility.
 [17] So you are making sure you are
 [18] maintaining the right speed for your boat, you are
 [19] maintaining the right speed for the hauler, you
 [20] are watching your guys to make sure they are
 [21] getting the fish out.
 [22] Even though you could go a little
 [23] faster, if they are not getting fish out fast
 [24] enough, you have to keep the speed of the boat
 [25]

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Stepsiki

[1] back and the hauler back, right?
 [2] A: Yes.
 [3] Q: On your first run that day, the
 [4] string, how did you do, did you have a lot of
 [5] fish?
 [6] A: Yes. We did very well.
 [7] Q: Could you give me a rough estimation
 [8] of how many pounds of fish you estimate you would
 [9] have gotten on that first run?
 [10] A: I think it was over 2,000 pounds
 [11] that first run.
 [12] Q: On the second string before the
 [13] accident, how were you doing on the second string?
 [14] A: Pretty good. About the same.
 [15] Q: If you did about a third of it, then
 [16] you had about 700 pounds, 600 pounds or so of fish
 [17] from that string?
 [18] A: Yes.
 [19] Q: You would call that a pretty good
 [20] day?
 [21] A: Yes.
 [22] Q: Would you call it an exceptionally
 [23] good day?
 [24] A: I wouldn't say exceptionally good,
 [25]

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[1] but good fishing, good fishing day.
 [2] Q: From the time you arrived and took
 [3] your position at what we call the auxiliary
 [4] controls at the first string or maybe the second
 [5] until you finished the string, did you go to the
 [6] wheelhouse?
 [7] A: On the first one?
 [8] Q: Yes.
 [9] A: I don't remember if I did that
 [10] particular time.
 [11] Q: What is your best recollection of
 [12] whether you did or not?
 [13] A: I really don't know.
 [14] Q: I believe you said it's your
 [15] practice, custom usually that you will go into the
 [16] wheelhouse right after you finish your string or
 [17] before you start the next string; is that right?
 [18] A: Yes. Right after I set grab, we set
 [19] the string, I will set it from the wheelhouse,
 [20] when we get to the next one, I will come back out
 [21] to the hauler, the auxiliary station.
 [22] Q: So you set it from the wheelhouse?
 [23] A: Yes.
 [24] Q: While you are actually hauling, is
 [25]

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[1] it your practice to remain at the auxiliary
 [2] station until that net is hauled and you are ready
 [3] to reset?
 [4] A: Usually, but occasionally I will go
 [5] up in the wheelhouse to check things.
 [6] Q: But if you don't sense anything
 [7] unusual, you don't see a radar target looking
 [8] through the window, assuming you can see your
 [9] radar, you didn't hear a funny noise or anything
 [10] that you think requires your attention, in the
 [11] ordinary course you remain at your auxiliary
 [12] station during the hauling of the nets, at least
 [13] one string of nets, isn't that true?
 [14] A: Usually.
 [15] Q: Do you remember when you hauled the
 [16] first string of nets here if there was anything
 [17] unusual that occurred that you thought required
 [18] your attention in the wheelhouse?
 [19] A: I don't remember, no. I don't
 [20] recall that happened.
 [21] Q: Then when you first were hauling the
 [22] first string, went to reset it, you then went into
 [23] the wheelhouse, then you set that net and after
 [24] you reset it, you proceeded still in the
 [25]

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[1] *Stepski*
[2] wheelhouse over at the second; am I correct so far
[3] what happened?
[4] A: Yes.
[5] Q: You are clear on this part?
[6] A: Yes.
[7] Q: When you were in the wheelhouse
[8] during the resetting and navigating to the second
[9] string, what did you have your vessel's radar set
[10] on, what range?
[11] A: I believe it was six miles.
[12] Q: Did you see any targets on the radar
[13] at that time?
[14] A: At that time, I don't believe so.
[15] Q: Go ahead.
[16] A: I don't remember seeing any target.
[17] Q: You think you would have remembered
[18] if you had seen that?
[19] A: I don't think I would have. I mean,
[20] we see targets all the time. Back two years I
[21] don't remember.
[22] Q: Do you remember then while you were
[23] in the wheelhouse if you don't remember seeing a
[24] target, do you remember making any assessment
[25] while you were in the wheelhouse whether any

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[1] *Stepski*
[2] targets presented a threat to your vessel?
[3] A: I don't remember at that time, at
[4] the time going to the next string?
[5] Q: Either from the time you went in the
[6] wheelhouse to reset string No. 1 until the time
[7] you arrived at string No. 2's highflier to lift
[8] that up, do you remember seeing any targets?
[9] That's my first question.
[10] A: That might have been when I first
[11] saw the target, the ship, right around then. I
[12] don't remember if it was before I started hauling
[13] that string or —
[14] Q: Before you started hauling string
[15] No. 2, you mean?
[16] A: Yes.
[17] Q: Or after you started hauling string
[18] No. 2?
[19] A: Right.
[20] Q: Again, so it's clear, so the record
[21] is clear, you don't remember whether you saw that
[22] target that eventually you believe was the target
[23] that actually was in collision with you while you
[24] were in the wheelhouse before you started to haul
[25] string No. 2 or you saw it after you started to

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[1] *Stepski*
[2] haul string No. 2; is that correct?
[3] A: Right.
[4] Q: If it's true you think that might be
[5] the case, what is your best recollection of what
[6] was the case?
[7] A: I'm thinking that that ship showed
[8] up on the radar before I started hauling the
[9] second string.
[10] Q: While you were in the wheelhouse,
[11] proceeding to the second string?
[12] A: Or maybe right at the beginning of
[13] the second one that I saw it.
[14] Q: It would have been two different
[15] things, wouldn't it, Mr. Stepski?
[16] If you would have seen it in the
[17] wheelhouse, had it been before you started hauling
[18] the second string, but once you started hauling
[19] the second string, you would have seen it if you
[20] saw it through the window?
[21] A: Yes.
[22] Q: Into the wheelhouse; is that
[23] correct?
[24] A: Yes.
[25] Q: And you can't remember which one it

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[1] *Stepski*
[2] is?
[3] A: I don't remember when I first saw
[4] it, whether it was while I was proceeding to the
[5] next string or a while later. I believe it was
[6] while we were hauling the next string, that's when
[7] we saw it and that's —
[8] Q: You are using the word "we." Who
[9] saw it first?
[10] A: Me.
[11] Q: By using the word "we," did you use
[12] the word loosely or did anybody else see it as
[13] well?
[14] A: I think the guys were aware that I
[15] was watching this particular target.
[16] Q: When you saw that target for the
[17] first time, how long was it before the collision
[18] occurred?
[19] A: I would have to say a period of — I
[20] can't really say because it's not something, at
[21] the time something I was really considering, I was
[22] just watching it. Probably roughly 20 minutes,
[23] half an hour, I don't know.
[24] Q: Did you tell the Coast Guard the
[25] time —

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(1) *Stepski*
(2) A: I don't remember if I told them. I
(3) don't remember.
(4) Q: Your recollection right now is 20
(5) minutes to a half an hour?
(6) A: It probably wasn't that long.
(7) Q: What is your best recollection of
(8) how much time passed between when you first saw
(9) that radar target and the collision?
(10) A: I really don't know.
(11) Q: By don't know, you mean you can't
(12) remember now?
(13) A: I can't give you a good honest
(14) answer to that because I really, I wasn't timing
(15) it.
(16) Q: Of course. You didn't know that,
(17) but I take it from your answer then when you saw
(18) the radar target, you didn't look at your watch,
(19) look at the clock on the chart plotter or anything
(20) else to determine what time you observed that?
(21) A: No.
(22) Q: What I'm really trying to get at is
(23) even though you didn't look at your watch or try
(24) to figure out the time, do you have a rough
(25) approximation, even if it's rough, of how much

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(1) *Stepski*
(2) time actually passed?
(3) MR. HEALEY: We have
(4) established — I am going to put the
(5) objection on the record.
(6) You have asked him about three
(7) times. He has not been able to
(8) answer.
(9) A: I hate to say an answer to that
(10) because I really don't know.
(11) Q: Was it closer to 15 minutes than it
(12) was to half an hour?
(13) A: Yes, I think so.
(14) Q: You still have to keep your voice
(15) up.
(16) When you saw the target, since you
(17) don't remember whether you were in the wheelhouse
(18) when you saw it, whether you looked through the
(19) window and saw it, what did you do about it, if
(20) anything?
(21) A: Well, I watched it to make sure we
(22) weren't on a collision course, to see what
(23) direction it was going.
(24) Q: You said though that while you
(25) weren't sure, you believed you saw it while you

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(1) *Stepski*
(2) were hauling the second string.
(3) If that's the case, you were
(4) watching it through the wheelhouse window?
(5) A: No, I jumped. I went right in there
(6) at least three or four times to watch it.
(7) Q: When you saw it, you left your
(8) station and you said jumped, jumped over the table
(9) that had nets on it now and your guys getting fish
(10) out of the nets and you went into the wheelhouse
(11) and you took a look at it up close and personal on
(12) the radar.
(13) Why did you do that?
(14) A: I just wanted to try to figure out
(15) exactly which way he was going, if there was any
(16) threat to us.
(17) Q: Couldn't you see that through the
(18) window?
(19) A: Yes.
(20) Q: Why did you go in the wheelhouse?
(21) A: Just to be able to take my time and
(22) really remove myself from everything else and
(23) concentrate on what this target is doing.
(24) Q: You went in the wheelhouse and you
(25) looked at it.

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(1) *Stepski*
(2) How long would you say you stayed in
(3) the wheelhouse this first time?
(4) A: I guess five minutes.
(5) Q: What was happening with the
(6) retrieval of, the hauling in the nets while you
(7) were in the wheelhouse?
(8) A: I believe Geal jumped right into my
(9) space. If I have to go inside, he watches the
(10) hauling for me.
(11) Q: When you were in the wheelhouse for
(12) five minutes, you were looking at your radar
(13) screen, was the radar still set on the six-mile
(14) range?
(15) A: Yes.
(16) Q: When you were in the wheelhouse this
(17) first time, what was the distance from the target
(18) to your vessel?
(19) A: It had just come inside of — it was
(20) probably still six miles away at that time,
(21) because the radar will show a little bit more at
(22) the top than the six miles. So just inside of six
(23) miles. About six miles.
(24) Q: About six miles ahead, inside
(25) six miles?

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[1] Stepski
[2] A: Yes.
[3] Q: So you studied it for five minutes.
[4] When you left the wheelhouse, where
[5] was the target?
[6] A: It was still due east of us.
[7] Q: What was its distance from your
[8] vessel?
[9] A: When I went back outside, what was
[10] the distance?
[11] Q: Yes.
[12] A: I don't know exactly.
[13] Q: But you are in there for five
[14] minutes?
[15] A: I don't know if it's exactly five
[16] minutes. I went in there another at least three
[17] times.
[18] Q: Hold on. We are talking about the
[19] first time you were in there, the very first time
[20] you saw the target, you went in the wheelhouse,
[21] you studied it, you said, for about five minutes,
[22] and I'm not saying it was exactly five minutes,
[23] but about five minutes before you went back
[24] outside?
[25] A: Uh-huh.

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[1] Stepski
[2] Q: What I am asking you is while you
[3] were in there, did that target advance closer to
[4] your vessel?
[5] A: Yes.
[6] Q: About how much?
[7] A: I don't know exactly.
[8] Q: Did you make any calculation in this
[9] regard while you were there?
[10] A: No. I was trying to get the
[11] direction.
[12] Q: Trying to get? What did you do to
[13] try to get the direction?
[14] A: I watched as he came down my heading
[15] line, which direction he was going.
[16] Q: What did that indicate to you?
[17] A: That he was going to — well, at
[18] that point I really wasn't sure. I was still
[19] watching it very carefully.
[20] Q: Let me ask it a different way.
[21] When you were in there and saw it
[22] the first time, did the range of that target
[23] decrease?
[24] A: Yes.
[25] Q: Did the bearing of that target

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[1] Stepski
[2] change relative to your vessel?
[3] A: Bearing of it, how far away.
[4] Q: No, the directionality of it. If it
[5] was like 80 degrees off your beam, a hundred
[6] degrees, did it change?
[7] A: No. Because we had the boat
[8] stopped. So I didn't get a direction of my boat.
[9] Q: When you looked at your radar
[10] screen, was the target that you observed, where
[11] was the target you observed on the radar screen?
[12] A: It was — when I observed it, while
[13] I was in there?
[14] Q: Yes. The first five-minute
[15] observation period.
[16] A: It was basically just due east of
[17] us. I don't remember if it was a little off to
[18] the right of center. I don't remember exactly.
[19] Q: Was it in the top half of the screen
[20] or the bottom half of the screen?
[21] A: Top half.
[22] Q: And a little right to the center of
[23] the top half?
[24] A: That's correct.
[25] Q: Your radar was set in heads up

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[1] Stepski
[2] ship's head?
[3] A: Uh-huh.
[4] Q: While you were in the wheelhouse,
[5] outside of watching the target, did you take any
[6] other action, such as — well, let me put it this
[7] way.
[8] Were you concerned when you were in
[9] the wheelhouse at that time about the risk of
[10] collision with your vessel?
[11] A: Any time I see a target on the
[12] radar, I'm concerned about that. But he was still
[13] five miles away.
[14] Q: Five miles away?
[15] A: East.
[16] Q: That's what I am trying to get at.
[17] When you left the wheelhouse, how
[18] much had that distance or range decreased?
[19] A: I don't remember.
[20] Q: Was it a mile, more than a mile,
[21] less than a mile?
[22] A: I don't know.
[23] Q: Because you said just a second ago
[24] he was about five miles away, I'm wondering where
[25] you got that from?

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Stepsiki

[1] [2] A: Well, five to six miles. By the
[3] time I'm in there for a while, I know he was
[4] getting closer. It's kind of a guess, I guess.
[5] Q: Did the thought occur to you at that
[6] time to try to raise the ship or make a call on
[7] the VHF radio?
[8] A: At that time, the thought occurred
[9] to me, yes.
[10] Q: Well, why didn't you?
[11] A: Because he was still far enough away
[12] that I wasn't that concerned at that point that I
[13] had to call him. I wanted to keep watching first.
[14] Q: What did you do? You then left the
[15] wheelhouse after about five minutes, you left the
[16] wheelhouse.
[17] What did you do?
[18] A: I think I went right back to the
[19] hauler, kept hauling.
[20] Q: Did there come a time you went back
[21] into the wheelhouse again to take another up close
[22] and personal look at this situation?
[23] A: Yes.
[24] Q: About how long after the first time
[25] in the wheelhouse did you come back to the

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Stepsiki

[1] [2] wheelhouse?
[3] A: I don't remember that. I don't
[4] remember exactly the period of time.
[5] Q: When you left the wheelhouse, did
[6] you leave your radar set on six miles?
[7] A: I left it on six miles until he got
[8] within three miles. Then I decreased the range.
[9] Q: For lack of a better word, I'm going
[10] to call that first time time one in the
[11] wheelhouse.
[12] MR. HEALEY: For lack of a
[13] better word, because there is nothing
[14] exact.
[15] MR. SINGLETON: I accept that.
[16] Q: Time one in the wheelhouse, then you
[17] went back out to work your position at the hauler.
[18] Can you make an estimate of the
[19] amount of time you were at the hauler before you
[20] went back into the wheelhouse for time two?
[21] A: Maybe another few minutes. Another
[22] five minutes, I don't know. I hate to say time.
[23] It would have been up to ten minutes.
[24] I don't remember.
[25] MR. HEALEY: Just tell the

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Stepsiki

[1] [2] lawyer.
[3] A: I don't remember.
[4] Q: But you then went back into the
[5] wheelhouse. Why did you do that?
[6] A: Because he was getting closer. I
[7] wanted to take a really good look, make sure. We
[8] weren't on a collision course.
[9] Q: How did you know he was getting
[10] closer?
[11] A: He was getting closer on the range
[12] of the radar.
[13] Q: How do you know that, you were
[14] looking through the window and saw it?
[15] A: Well, the range.
[16] Q: You were out at the steering
[17] station, you said you went back into the
[18] wheelhouse because he was getting closer?
[19] A: Yes.
[20] Q: How did you know he was getting
[21] closer?
[22] A: I could see he was six miles away
[23] down to five, then four.
[24] Q: Let me try this.
[25] Were you watching through the window

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Stepsiki

[1] [2] of the wheelhouse periodically at the radar or
[3] not?
[4] A: Constantly.
[5] Q: So you saw through the window of the
[6] wheelhouse that the range was decreasing further
[7] to your vessel?
[8] A: Yes.
[9] Q: And because of that, at some period
[10] of time after you had gone back out to the hauler,
[11] after time one you went back in a second time to
[12] the wheelhouse to take a look at things; is that
[13] right?
[14] A: Yes.
[15] Q: What did you do when you were in the
[16] wheelhouse the second time?
[17] A: I studied his direction and I
[18] considered making a call.
[19] Q: Anything else?
[20] A: No. I was watching him.
[21] Q: How long were you in the wheelhouse
[22] the second time did you say?
[23] A: I don't know.
[24] I stayed there for a while until I
[25] was a little more comfortable and went back

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[1] Stepski
[2] outside.
[3] Q: When you went into the wheelhouse
[4] for the second time, about how long after that did
[5] the collision occur?
[6] A: I'm pretty sure I had gone in a
[7] third time, so I don't really know how long after
[8] that second time.
[9] Q: You can't say?
[10] A: No.
[11] Q: When you went in for the third time,
[12] is that the time when the collision occurred,
[13] right after that?
[14] A: No. The third time I was pretty
[15] sure, I was actually positive that he was going to
[16] pass us, that we weren't on a course, collision
[17] course rather.
[18] Q: Did you go into the wheelhouse for a
[19] fourth time?
[20] A: Well, when I saw that he had changed
[21] course, I went back in and I could see that he was
[22] getting really close really fast so — the
[23] question was?
[24] Q: Did you go back in the wheelhouse
[25] for a fourth time?

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[1] Stepski
[2] A: Yes.
[3] Q: Did the collision occur right after
[4] that?
[5] A: Very shortly after that.
[6] It could have been the fifth time
[7] because I was in and out of that wheelhouse at
[8] least three or four times. That's why I say I
[9] don't know exactly how many times I went in there.
[10] Q: Each time when you went out of the
[11] wheelhouse, you would go back to your station at
[12] the hauler?
[13] A: I think so.
[14] I might have just gone out on the
[15] table and watched them from the table that one
[16] time rather than going back over to the hauler.
[17] Q: It could have been a fifth time in
[18] the wheelhouse.
[19] When you were in the wheelhouse for
[20] the third time, let's just go to the second time
[21] when you went in the wheelhouse, what was the
[22] distance of the target from your vessel?
[23] A: The second time?
[24] Q: Yes.
[25] A: The second time was probably — I

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[1] Stepski
[2] don't know. I really don't know the exact
[3] distances each time I went in there.
[4] I was trying to get —
[5] MR. HEALEY: You have answered
[6] his question.
[7] Wait for another one, we might
[8] move along.
[9] Q: You said you didn't get the
[10] distances because you were trying to get
[11] something.
[12] What was it that you were trying to
[13] get when you were going in the wheelhouse to look
[14] at the radar?
[15] A: His course. He was headed for us.
[16] Q: When you went in the second time,
[17] did it appear he was headed for you?
[18] A: No.
[19] Q: Had the target's bearing to your
[20] vessel changed from the first time to the second
[21] time?
[22] A: No.
[23] Q: When you went in the third time, did
[24] you notice what the distance of the target —
[25] A: Wait. Target's bearing, direction?

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[1] Stepski
[2] Q: Yes.
[3] A: What is the question?
[4] Q: The answer you gave was correct to
[5] my question?
[6] A: Yes, he still seemed to be coming
[7] right along the same path.
[8] Q: The third time when you went in the
[9] wheelhouse, what was the distance then from the
[10] target to your vessel?
[11] A: I would have to guess about three
[12] miles.
[13] Q: Had the bearing changed?
[14] A: No.
[15] Q: When you saw the third time in the
[16] wheelhouse that the distance was about three
[17] miles, is that when you switched your radar
[18] display to three miles?
[19] A: I believe so.
[20] Q: When you went in the wheelhouse the
[21] fourth time, what was the distance of the target
[22] to your vessel?
[23] A: Probably — I don't know.
[24] Q: By "I don't know," do you mean at
[25] the time you didn't really try to determine

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(1) *Stepski*
 (2) that —
 (3) A: At the time I was paying attention.
 (4) But you are talking about on a scale one to six.
 (5) I don't know which, each time I went in there
 (6) which one he was. I can't remember back that far
 (7) and the detail.
 (8) Q: That's my point.
 (9) Did you know then but just can't
 (10) remember now is what I am getting at?
 (11) A: Yes. I paid attention to how far he
 (12) was each time, absolutely.
 (13) Q: At that fourth time or the third
 (14) time when you were in the wheelhouse, were you
 (15) concerned about the risk of a collision?
 (16) A: The fourth time.
 (17) Q: The third time when he was three
 (18) miles?
 (19) A: No. He was definitely on a passing
 (20) course.
 (21) Q: He was?
 (22) A: It was after that that they were on
 (23) a collision course.
 (24) Q: The target's bearing to your vessel
 (25) had not changed; is that right?

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(1) *Stepski*
 (2) A: Target's bearing?
 (3) Q: Yes.
 (4) A: My heading is here, he is coming
 (5) down like this. He is at three miles. And it
 (6) hadn't changed, he was still on the same course.
 (7) Q: So you believed that the ship was
 (8) on — did you make any calculation or use anything
 (9) to try to determine what the closest point of
 (10) approach between the target you had and your
 (11) vessel might be in?
 (12) MR. HEALEY: I am going to
 (13) object at this point, just to form.
 (14) You said did you make any
 (15) calculations or do anything. They are
 (16) two things, should be broken up into
 (17) two.
 (18) MR. SINGLETON: I accept that.
 (19) Q: Did you do anything to calculate the
 (20) closest point of approach of that vessel or that
 (21) target when you were in the wheelhouse the third
 (22) time?
 (23) A: What do you mean the closer point of
 (24) approach?
 (25) Q: Well, how close he was going to pass

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(1) *Stepski*
 (2) to your vessel?
 (3) A: Yes.
 (4) Q: What did you do?
 (5) A: I don't remember what I did to
 (6) figure out how far he was going to pass. I
 (7) remember knowing that he was going to pass us.
 (8) That's what I remember.
 (9) Q: How do you make such a calculation?
 (10) A: Holding my heading steady and
 (11) watching his heading in relation to my heading
 (12) line.
 (13) Q: Anything else?
 (14) A: In many situations I will use the
 (15) variable range mark.
 (16) MR. HEALEY: I think you are
 (17) talking about now?
 (18) MR. SINGLETON: He said he
 (19) doesn't recollect what he did.
 (20) MR. HEALEY: Go ahead. I
 (21) thought maybe he was straying from
 (22) your question.
 (23) MR. SINGLETON: I am asking
 (24) now how he calculates in a situation
 (25) like that, how he calculates the

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(1) *Stepski*
 (2) closer points to the radar target.
 (3) MR. HEALEY: Again, I'm
 (4) confused.
 (5) Are you asking him generally
 (6) or what he was doing that day?
 (7) MR. SINGLETON: He said he
 (8) doesn't recollect what he did that
 (9) day.
 (10) I am asking what he does.
 (11) MR. HEALEY: Generally is what
 (12) you are talking about?
 (13) MR. SINGLETON: In general,
 (14) that's correct.
 (15) A: In general I put a variable range
 (16) mark on the target and see if he is heading right
 (17) down the mark to us or going to pass us, which
 (18) side he is going to pass us.
 (19) Q: And you don't remember whether you
 (20) did that or not on the AVA CLAIRE on May 22nd?
 (21) A: All I know is I determined that he
 (22) was going to pass us.
 (23) I don't remember exactly if it was a
 (24) range mark or if I just used my heading in
 (25) relation to how he was traveling down the head.

[1] Stepski
[2] Q: At the time, the second, third or
[3] fourth time, the second or third time you went
[4] into the wheelhouse on May 22, 2004, what was the
[5] bearing of the target to your vessel?
[6] A: What was the bearing?
[7] He was — I can't give you an exact
[8] bearing. I don't remember exactly what his
[9] bearing was, but he was coming in from the east.
[10] Q: On your radar screen he was coming
[11] from the top left as you looked at the radar
[12] screen?
[13] A: No, top right.
[14] Q: The top right.
[15] Was his course such that if you
[16] maintained your course and speed and he maintained
[17] his, would he pass off your bow or off your stern?
[18] A: He would have passed our starboard
[19] side. He was almost —
[20] MR. HEALEY: You said it.
[21] Q: He was on what we would call
[22] something close to a reciprocal course.
[23] In other words, as you calculated,
[24] you would pass side to side, make no contact, he
[25] would pass your starboard side, you would be on

[1] Stepski
[2] his starboard side; is that right?
[3] A: Yes.
[4] Q: That's the way you read your radar
[5] on May 22, 2004?
[6] A: Yes.
[7] Q: How close do you believe he would
[8] have passed, based on your observations?
[9] MR. HEALEY: This is prior to
[10] what he mentioned, he thought there
[11] was a turn? This is prior to that?
[12] MR. SINGLETON: Well, we will
[13] talk about the turn in a minute.
[14] MR. HEALEY: I understand
[15] that.
[16] Then you would get two sets of
[17] figures before he believed there was a
[18] turn.
[19] MR. SINGLETON: Yes, it is.
[20] A: I already answered that I don't
[21] remember exactly how far. I hate to guess.
[22] Q: Now, at some point did you believe
[23] the other vessel had turned or altered its course?
[24] A: Yes.
[25] Q: In which one of your trips to the

[1] Stepski
[2] wheelhouse did you realize this or did you believe
[3] this had occurred?
[4] A: I don't remember which trip to the
[5] wheelhouse.
[6] As I was watching, I could see that
[7] he was heading right for us.
[8] Q: So the turn that the vessel made,
[9] that you believe the vessel made, was a turn that
[10] then put the vessel on a collision course with
[11] you; is that right?
[12] A: Yes.
[13] Q: About how long before the collision
[14] did you perceive or believe this turn was made?
[15] A: I don't remember the time.
[16] Q: Was it ten minutes before the
[17] collision?
[18] A: I don't think it was that long.
[19] Q: Was it five minutes before the
[20] collision?
[21] A: I don't know. Very short.
[22] Q: Was it one minute before the
[23] collision?
[24] A: No. It was pretty quick. We were
[25] on a passing course and he turned and headed right

[1] Stepski
[2] for us. That's the way I read it.
[3] Q: What is the maximum amount of time
[4] before the collision you believe this turn
[5] occurred?
[6] MR. HEALEY: Go ahead, but,
[7] Richard, he keeps telling us he cannot
[8] tell the time under these
[9] circumstances.
[10] So I'll object based upon his
[11] prior answers to the form. I won't
[12] stop you.
[13] Your question, I interrupted
[14] you?
[15] A: What was it?
[16] Q: The question was give me a time that
[17] you think would be the greatest distance or time
[18] between which you saw the turn or observed or
[19] believed the vessel had turned and the collision
[20] occurred?
[21] A: It would be a matter of minutes.
[22] Q: So less than five minutes, would you
[23] say?
[24] MR. HEALEY: I object.
[25] I think you are arguing and

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[1] that is bad form.
[2] The man has told you he cannot
[3] give you a better estimate than he
[4] has.
[5] You have to answer the
[6] question nonetheless.
[7] A: I don't know. I would say less than
[8] five minutes.
[9] Q: So it may have been more than five
[10] minutes?
[11] A: I don't know.
[12] Q: Were you in the wheelhouse when you
[13] saw the vessel, saw what you thought was the
[14] vessel make a turn, the target make a turn?
[15] A: No. At that point I was out, when I
[16] realized — I was at the hauler.
[17] Q: You were at the hauler when you
[18] believe the other vessel, the target made a turn;
[19] is that right?
[20] A: Yes.
[21] Q: Did you see that turn indicated on
[22] the radar through the window?
[23] A: No. I could just tell he was
[24] bearing right down on us.
[25]

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[1] Q: When you were at the hauler and saw
[2] the vessel, "bearing right down on us," what did
[3] you do?
[4] A: I yelled to my mate to untie the
[5] nets and let them go.
[6] Q: Did he do that?
[7] A: He was in the process until I yelled
[8] at him to cut the nets and let them go, because it
[9] was really bearing down on us fast.
[10] Q: And did he do that?
[11] A: He didn't even have time because I
[12] just gave a full throttle as soon as I saw that
[13] thing coming out of the fog.
[14] Q: You gave full throttle.
[15] What was your heading at the time
[16] you gave full throttle?
[17] A: I have no idea. I was trying to get
[18] the heck out of there.
[19] Q: What was your rutter, were you going
[20] straight when you gave it full throttle?
[21] A: Yes. I think it was pretty
[22] straight. But by the time my boat started moving,
[23] he was coming on the side.
[24] Q: Did you still have the nets attached
[25]

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Stepsi

[1] to your boat or had they been cut?
[2] A: I don't know if they had been cut by
[3] then.
[4] Q: Well, when you saw, when you first
[5] observed that this vessel had changed course, did
[6] you sound any danger signals?
[7] A: There wasn't time.
[8] I was more concerned with just
[9] getting out of there because I could see that he
[10] wasn't obviously watching the radar.
[11] Q: At your auxilliary control position,
[12] does your vessel have a horn or whistle?
[13] A: Yes.
[14] Q: Can you sound that from the
[15] auxilliary control position?
[16] A: Yes.
[17] Q: Did you sound it?
[18] A: No.
[19] Q: What sound would you have sounded
[20] had you sounded?
[21] A: One long and two shorts is the
[22] fishing signal.
[23] MR. HEALEY: Answer the
[24] question.
[25]

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[1] Q: So one long and two shorts?
[2] A: Yes.
[3] Q: And just to recap, you can't tell me
[4] in any way, shape or form by references to
[5] anything how long it was between when you believed
[6] you saw this vessel change course and when the
[7] collision occurred?
[8] MR. HEALEY: As of now?
[9] Because there's going to be a lot more
[10] information developed.
[11] All I'm saying is, Richard,
[12] don't try and say that if something
[13] comes up later from the situations for
[14] other people, he might not be able to
[15] amplify.
[16] The question is, again, I
[17] think it has to be done.
[18] I'm sorry, you have to answer
[19] the question.
[20] A: I have.
[21] MR. SINGLETON: From now on, I
[22] would appreciate it, the rules in this
[23] district —
[24] MR. HEALEY: Don't tell me
[25]

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(1) rules.
 (2) If you want me not to do
 (3) anything except object, I will do
 (4) that.
 (5) MR. SINGLETON: Any time you
 (6) want to talk to me about reasons, I'm
 (7) happy to step outside.
 (8) MR. HEALEY: Good enough.
 (9) That's the way we will do it.
 (10) Q: My question to you is, is there
 (11) anything or any way that you can tell, anything
 (12) you can look at or if we sat here for a hundred
 (13) years, would you be able to think of how much time
 (14) passed between when you first believed you saw the
 (15) target change course and when the collision
 (16) occurred?
 (17) MR. HEALEY: Note my
 (18) objection.
 (19) A: I think it was a matter of minutes,
 (20) like I said before. It was very short. Because
 (21) then he was looming, I was just so concerned about
 (22) getting out of the way that I don't know exactly
 (23) how many minutes took place.
 (24) Q: How about when you saw the vessel,
 (25)

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(1) you physically saw it at one point, didn't you?
 (2) A: Yes.
 (3) Q: Before it struck your vessel?
 (4) A: Uh-huh.
 (5) Q: About how much time passed between
 (6) when you first saw the vessel initially and when
 (7) the collision occurred?
 (8) A: That would have to be seconds.
 (9) I don't even know if it would make a
 (10) full minute because it was so close and moving so
 (11) fast.
 (12) Like I said, by the time I gave full
 (13) throttle, my boat, I don't think it was barely
 (14) moving by the time he came to the side.
 (15) How long that would have taken —
 (16) Q: But sort of to recap, even though
 (17) you had an operating VHF, did you do any radio
 (18) checks to try to make sure it was working?
 (19) A: We called the bridge first thing in
 (20) the morning and I had heard other transmissions
 (21) but, yes, bridge first thing.
 (22) Q: The bridge responded to you when you
 (23) called.
 (24) So assuming your VHF was working,
 (25)

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(1) you knew it was working, you decided not to make
 (2) any calls at all or try to hail this vessel even
 (3) though you knew you were in fog and it was going
 (4) to at least pass in some proximity to your vessel;
 (5) is that correct?
 (6) A: Yes. Because I had determined that
 (7) we weren't in danger of hitting in the beginning.
 (8) By the time we were, I didn't have time to do
 (9) anything but get the heck out of there. He was
 (10) moving so fast.
 (11) Q: Just to recap, from the time you
 (12) first saw this target to the time the collision
 (13) occurred, you did not remain in the wheelhouse?
 (14) MR. HEALEY: Objection.
 (15) A: Can you ask that question again?
 (16) Q: From the time you first saw the
 (17) target to the time the collision occurred or
 (18) immediately before the collision, you did not
 (19) remain in the wheelhouse the entire time; is that
 (20) true?
 (21) A: Yes.
 (22) Q: That's because you were out
 (23) attending to other things on the deck, such as
 (24) continuing to haul your nets; is that true?
 (25)

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(1) A: Yes.
 (2) Q: And when you went out on the deck,
 (3) did you leave anybody in charge, either Geal or
 (4) Schober, with a specific instruction to do nothing
 (5) but watch the radar?
 (6) A: No. We were all pretty much looking
 (7) at it. There was no specific instructions because
 (8) I kept a steady eye on it myself.
 (9) Q: Here is the other question I have,
 (10) it's not really a question, I want to make sure I
 (11) understand what you have said.
 (12) Did you see the actual course change
 (13) on the radar screen or did you look at the radar
 (14) and see that the course had changed and was now
 (15) bearing down upon you?
 (16) A: I saw that it had changed.
 (17) Q: You did not see him when he changed,
 (18) at the time the change occurred?
 (19) A: That's a tough question to answer.
 (20) You see him make a turn on the
 (21) radar. I don't understand the question.
 (22) Q: The question is did you watch the
 (23) radar and see blip here, blip here, then see the
 (24) blip start to turn as the radar antenna went
 (25)

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[1] around?
[2] Is that what you saw?
[3] A: Yes.
[4] Q: Why didn't, as soon as you saw that
[5] turn start to occur, why didn't you take emergency
[6] action?
[7] MR. HEALEY: Objection to the
[8] form.
[9] A: I did. I told Geal to untie the
[10] nets so we could get out of there.
[11] Q: And there was -- we are talking
[12] about now that order to Geal.
[13] How long was that before the
[14] collision occurred?
[15] A: It was, like I say, a matter of
[16] minutes, because he had more than doubled his
[17] closeness to us by the time I told him to cut the
[18] nets. Then he was coming through the fog by the
[19] time I gave it throttle.
[20] Q: When you saw the turn occur, how far
[21] away was the target?
[22] A: I don't remember exactly.
[23] I would have to say it was less than
[24] three miles, may have been close to two or less,
[25]

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[1] but I don't remember.
[2] I was so concerned at the time just
[3] to get out of there that I could tell when I
[4] realized he was heading right for us, I wanted to
[5] get out of there, I wanted to get the nets off the
[6] boat and get out of there.
[7] Q: When you looked at that radar and
[8] you saw the blips of the target starting to change
[9] direction from the course that it had been on, did
[10] you know at that time whether that course that he
[11] eventually wound up on was going to be straight
[12] for your boat?
[13] A: I didn't have time to actually sit
[14] and calculate it. I wanted to just be free of our
[15] nets and get away from him.
[16] Q: So when you, as soon as you saw it
[17] start to turn, that's when you gave the order to
[18] Geal to let go of the nets or release the nets or
[19] untie the nets?
[20] A: Uh-huh.
[21] Q: But you can't say at that time how
[22] far away that target was from your vessel; is that
[23] true?
[24] MR. HEALEY: Objection.
[25]

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[1] Q: Is that true?
[2] A: Right.
[3] Q: Can you say was it more than a mile?
[4] MR. HEALEY: Objection.
[5] Now I will talk to you for a
[6] minute.
[7] MR. SINGLETON: Fine. Let's
[8] take a short break.
[9] (Whereupon, at 3:40 o'clock
[10] p.m., a recess was taken.)
[11] (Whereupon, at 3:45 o'clock
[12] p.m., the deposition resumed with all
[13] parties present.)
[14] MICHAELA STEPSKI,
[15] resumed and testified further as follows:
[16] MR. SINGLETON: Back on the
[17] record.
[18] BY MR. SINGLETON:
[19] Q: Let me try to get at this a
[20] different way, one other way, and you either
[21] remember or you don't remember.
[22] And you either don't remember
[23] exactly what it was or you may remember a range or
[24] you don't remember a range.
[25]

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[1] But my question is in any way, by
[2] range, exact time or otherwise, can you give me
[3] some conception of how much time passed between
[4] when you saw the vessel, your target, make the
[5] turn and the collision occurred?
[6] A: It would have to be less than a few
[7] minutes.
[8] MR. HEALEY: Listen, I didn't
[9] get that.
[10] THE WITNESS: Less than a few
[11] minutes, I think. I don't know.
[12] Q: Same question with respect to
[13] distance.
[14] You threw out a couple of figures
[15] before when you saw that course change being made
[16] on the radar screen by the target by way of a
[17] range of over, under, whatever you can do, what
[18] was the distance from that target to your vessel?
[19] A: Probably less than two miles.
[20] Q: Less than two, but greater than
[21] what?
[22] A: I'm guessing probably in between one
[23] and two possibly, somewhere around there.
[24] Q: What were the visibility conditions
[25]

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[1] *Stepski*
 [2] as you were leaving the dock heading out to the
 [3] ocean that day?
 [4] A: It was calm and foggy.
 [5] Q: What was the visibility when you
 [6] started out?
 [7] A: Started out, it was still dark and
 [8] it was thick fog, very, very limited.
 [9] Q: As the sun came up and you could
 [10] sort of assess the visibility, what was the
 [11] visibility say at 7:00 or 8:00 in the morning?
 [12] A: We could probably see a hundred feet
 [13] off the boat to one yard off the boat maybe, if
 [14] that much.
 [15] Q: Did that visibility change up to the
 [16] time of the collision?
 [17] A: It stayed pretty steady, thick like
 [18] that.
 [19] Q: At the time of the collision, what
 [20] was the visibility?
 [21] A: I would have to say less than a
 [22] quarter mile.
 [23] Q: Were you sounding any kind of a fog
 [24] signal?
 [25] A: No.

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[1] *Stepski*
 [2] Q: Why not?
 [3] A: Because there was no one, I sound a
 [4] fog signal when there's someone around that will
 [5] either hear or be in danger of collision.
 [6] Q: When you saw this other target on
 [7] the screen, as a precaution you didn't think it
 [8] was necessary to sound a fog signal?
 [9] MR. HEALEY: At which point?
 [10] MR. SINGLETON: At any point
 [11] from the time he observed it until the
 [12] collision.
 [13] A: Those are horns that only go so far,
 [14] they are rated at half a mile. By the time he was
 [15] that close, I was a little more busy with trying
 [16] to get out of there than sounding a fog horn.
 [17] Q: With your boat, the AVA CLAIRE, from
 [18] a dead start with the engine idle, if you gave it
 [19] full throttle, how long it would take to get it
 [20] moving?
 [21] MR. HEALEY: With the attached
 [22] nets?
 [23] Q: Not attached to the nets, without
 [24] any nets attached.
 [25] A: It's a little slow. If you give it

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[1] *Stepski*
 [2] full throttle right off the bat, it would just —
 [3] are you asking me a time?
 [4] Q: How long would it take it to go 50
 [5] feet?
 [6] A: I don't know how long it would take.
 [7] It would get going pretty quick, but
 [8] I don't know how long. It's not going to be an
 [9] instant, but it's not going to be slow either.
 [10] Q: If you think you gave it a full
 [11] throttle without nets attached, you think in about
 [12] thirty seconds she would go 50 feet?
 [13] A: Thirty seconds?
 [14] Q: In other words, an AVA CLAIRE boat
 [15] length or two?
 [16] A: In thirty seconds?
 [17] Q: Yes.
 [18] A: Would it go the length of the boat?
 [19] Yes. Probably about that.
 [20] Q: I think you said, do you know or do
 [21] you not know whether they actually had cut the
 [22] nets loose by the time of the collision?
 [23] MR. HEALEY: He answered that
 [24] he didn't know.
 [25] A: I don't know.

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[1] *Stepski*
 [2] Q: With the nets attached, how fast
 [3] could the AVA CLAIRE go?
 [4] A: I don't even know if those nets
 [5] would have any change on how fast the boat would
 [6] go really. They would eventually break off. It
 [7] might slow it down a little bit, but I don't think
 [8] by that much.
 [9] But you could get in the wheel,
 [10] that's the biggest.
 [11] Q: What I am asking is if you had to,
 [12] in an emergent situation, put the boat full
 [13] throttle ahead, would the nets really slow the
 [14] boat down?
 [15] A: Probably would once they came tight
 [16] a little bit until they probably break, they would
 [17] break off.
 [18] Q: But you would have some give. You
 [19] would be able to go forward if the net became
 [20] tight; is that correct?
 [21] A: Yes.
 [22] Q: How many feet of net did you have
 [23] out?
 [24] A: 6,000.
 [25] Q: How many feet do you think you have

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[1] to play before that net would get tight?
 [2] A: It gets tight pretty quick, just
 [3] because of the water resistance. So you probably
 [4] would have tension if you moved more than ten feet
 [5] ahead.
 [6] Q: But how much before you would start
 [7] feeling the net slow you down?
 [8] A: I don't know if you would actually
 [9] feel it slowing you down or if it would just break
 [10] off by then. I don't know. I never tried that.
 [11] Q: I think you said you had a chance to
 [12] review the Coast Guard report of this incident; is
 [13] that correct?
 [14] A: Yes.
 [15] Q: Did you review the complete report?
 [16] A: Yes, I believe so.
 [17] Q: Did you review any of the
 [18] attachments to the report that showed basically a
 [19] track of the NORASIA ALYA?
 [20] A: Yes.
 [21] Q: Did that indicate that the NORASIA
 [22] ALYA made a turn?
 [23] A: Yes.
 [24] Q: Did you in your interviews to the

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Stepski

[1] Coast Guard say, ever say anything about that
 [2] turn?
 [3] A: Yes.
 [4] Q: You did?
 [5] A: Yes.
 [6] MR. SINGLETON: Let's mark
 [7] this, please, as the next exhibit.
 [8] (Conversation record was
 [9] marked as Exhibit No. 9 for
 [10] identification, as of this date.)
 [11] BY MR. SINGLETON:
 [12] Q: Let me show you what we have marked
 [13] as Exhibit 9. It's a conversation record.
 [14] Do you remember being interviewed
 [15] after the incident by the Coast Guard at Cape Cod?
 [16] A: Yes.
 [17] Q: Who was it that interviewed you
 [18] there?
 [19] A: I don't remember.
 [20] Q: Was it Lieutenant Commander Bloom?
 [21] A: I don't think so.
 [22] Q: Do you remember the rank of the
 [23] Coast Guard officer that interviewed you?
 [24] A: No.

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Stepski

[1] Q: Was it a Coast Guard officer that
 [2] interviewed you?
 [3] A: I may have been wrong. Yes, it was
 [4] a Coast Guard officer.
 [5] Q: Have you seen this document before,
 [6] Exhibit 9?
 [7] A: (Perusing document.) No. I don't
 [8] think so.
 [9] Q: It was part of the Coast Guard file.
 [10] A: Yes, I must have seen it. Yes, I
 [11] remember seeing this.
 [12] Q: I would like to go to the first
 [13] line, it says contact, stated contact is you, by
 [14] the way, you are the contact, stated that the
 [15] vessel had been gill netting for monkfish in Long
 [16] Island Sound in approximate lower end sea
 [17] position. Then it gives a Loran-C coordinate.
 [18] Did you report to the Coast Guard
 [19] your position of fishing in Loran coordinates?
 [20] A: They had a chart on the wall and I
 [21] just basically pointed to where we were. I
 [22] thought I gave them the latitude and longitude,
 [23] but I don't remember.
 [24] Q: It says underneath that chart not

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[1] available at time of interview for verification of
 [2] position.
 [3] A: There was one right on the wall in
 [4] their building. Geal even looked at it.
 [5] Q: You don't know whether you gave the
 [6] latitude and longitude or you gave a Loran-C or
 [7] you believe you gave them latitude and longitude?
 [8] A: From the letter I wrote, remember, I
 [9] wrote down the Loran numbers. It was probably
 [10] Loran numbers.
 [11] Q: Further down on this you say gill
 [12] net gear.
 [13] The document says gill net gear was
 [14] set on Loran line 14760.
 [15] As we sit here today, do you believe
 [16] that's where you had set your nets?
 [17] A: I gave them a rough area of where —
 [18] they weren't all on the same line anyway, so I
 [19] can't really say that they were on that number.
 [20] Q: This particular Loran line 14760
 [21] runs approximately north and south, doesn't it?
 [22] A: Yes.
 [23] Q: So when it says, when you set your
 [24] nets, you would set them, if you will, each one a

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[1] *Stepski*
[2] little bit more north than the other?
[3] A: Yes.
[4] Q: So while the east-west Loran line
[5] may change and probably would because you will be
[6] changing the -- the east-west line will change
[7] because you are going to be changing that
[8] position, the north-south Loran line would remain
[9] the same, wouldn't it, because you are going to
[10] set your nets?
[11] A: No.
[12] Q: No?
[13] MR. HEALEY: The answer is no.
[14] A: No. The north-south, what do you
[15] mean by the north-south line?
[16] Q: We are going to get specific in a
[17] moment. Let me go through that, I will come back
[18] to that question.
[19] The next statement says at
[20] approximately 1100 the vessel had completed
[21] retrieving the first net at the westward end of
[22] the gear and was beginning to pick up the second
[23] net.
[24] By this I take it that they mean
[25] second string?

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[1] *Stepski*
[2] A: Yes.
[3] Q: Is that correct?
[4] A: Is what correct?
[5] Q: Did this happen at approximately
[6] 1100?
[7] A: You see, I had the same hard time
[8] with times when I was explaining to them. I think
[9] I explained it basically the same as I did to you,
[10] just going by the amount of time it took to get
[11] there versus all the first string and then start
[12] the second one.
[13] Q: At the end of whatever exercise you
[14] went through with the Coast Guard, did you
[15] represent to them you believed it was about 1100
[16] that had you completed retrieving the first net
[17] and were beginning to pick up the second?
[18] A: Yes, I must have said that. It's
[19] right.
[20] Q: What I am asking you for, is that
[21] what you remember saying to them?
[22] A: I remember having a tough time with
[23] the times, just as we did, and trying to explain
[24] to them that I really don't know the time that
[25] anything happened. It's a very rough guess.

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[1] *Stepski*
[2] Q: Is the 11:00 o'clock figure the
[3] figure you essentially settled on with them as
[4] being the approximate time?
[5] A: Yes.
[6] Q: Is that correct?
[7] If you would back up a bit, it says
[8] "vessel was monitoring only one radar, only one
[9] contact on radar that appeared to be maintaining a
[10] distance of approximately three miles."
[11] Now, was that your phrase, that it
[12] appeared to be maintaining a distance of
[13] approximately three miles; is that what you told
[14] the Coast Guard?
[15] A: No.
[16] Q: Did you tell the Coast Guard that
[17] when you observed it, it was approximately three
[18] miles?
[19] A: No. I told them I saw it over six
[20] miles away.
[21] Q: It says here, "radar contact was
[22] believed to be another fishing vessel."
[23] Did you believe it to be another
[24] fishing vessel when you observed it?
[25] A: I didn't really know what it was.

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[1] *Stepski*
[2] Q: Did you tell the Coast Guard you
[3] believed it to be another fishing vessel?
[4] A: I don't think so.
[5] I don't think I ever said what it
[6] was, because I didn't know what it was. Just the
[7] target.
[8] Q: Further down it says previously
[9] noted radar contact was, "suddenly observed in
[10] close proximity."
[11] I will read that again. "Previously
[12] noted radar contact was suddenly observed at close
[13] proximity on radar."
[14] Did you tell the Coast Guard that?
[15] A: Yes.
[16] Q: It says next, "contact ran into
[17] pilot house to the control station and put vessel
[18] in gear."
[19] Did you tell the Coast Guard that?
[20] A: Yes.
[21] Q: So you put the vessel in gear from
[22] the pilot house, not from the auxilliary control
[23] station?
[24] A: Right.
[25] Q: It goes on to say, "observed

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(1) *Stepski*
 (2) visually for the first time a large ship bearing
 (3) down on their position," in other words, your
 (4) position.
 (5) Is that what you told the Coast
 (6) Guard?
 (7) A: Yes.
 (8) Q: "Vessel's throttles were put full
 (9) ahead and crew on deck attempted to disconnect
 (10) from gill net gear."
 (11) Did you tell the Coast Guard that?
 (12) A: Well, they tried to disconnect
 (13) before I put the throttles in.
 (14) Q: With that qualification, is this
 (15) sentence, did you tell the Coast Guard this?
 (16) A: That particular sentence, no.
 (17) Q: Did you tell them those facts?
 (18) A: Well --
 (19) Q: How about if we change it to say
 (20) crew attempted disconnection from gill net gear
 (21) and vessel's throttles were put full ahead, is
 (22) that what you told the Coast Guard?
 (23) A: They tried to disconnect before,
 (24) when I saw them getting very close, when I saw the
 (25) ship, that's when I gave full throttle.

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(1) *Stepski*
 (2) Q: Did you actually have your boat in
 (3) full throttle mode before the collision occurred?
 (4) A: Yes. That's how it was when we got
 (5) hit.
 (6) Q: Back to the timing questions again.
 (7) Do you know how long you were going
 (8) full throttle before the collision occurred?
 (9) A: Just seconds.
 (10) It all --
 (11) MR. HEALEY: Wait until you
 (12) get asked a question.
 (13) Q: It says here, "operator escaped from
 (14) pilot house just before vessel was struck
 (15) broadside," I guess, "view of."
 (16) I guess they meant in way of the
 (17) pilot house; is that true?
 (18) A: Say that again.
 (19) Q: Do you see?
 (20) A: "Operator escaped from pilot house
 (21) just before vessel was struck." Yes.
 (22) Q: Go down a little further, just below
 (23) the little line, the line that was skipped.
 (24) "Contact stated that radar unit was
 (25) Furuno brand, and that he just changed out another

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(1) *Stepski*
 (2) radar display unit (first trip with new unit)
 (3) leaving the old display in place en masse."
 (4) Did you tell the Coast Guard that?
 (5) A: I don't know if I told them I had
 (6) changed it. It wasn't the first trip.
 (7) Q: Did you tell them you had just
 (8) changed it?
 (9) A: No. I told them I had changed it
 (10) when they asked about the radar.
 (11) Q: You didn't tell them it was the
 (12) first trip with the new unit?
 (13) A: No, I don't believe so.
 (14) Q: Where in here does it say that you
 (15) saw the target vessel -- where in here does it say
 (16) you thought you saw the target vessel make a
 (17) change of course?
 (18) A: It says close to that, here, between
 (19) seeing it at three miles and then noticing it was
 (20) suddenly in close proximity. That's about as
 (21) close as they get to it there.
 (22) Q: But I have read through this and I
 (23) don't remember seeing anywhere --
 (24) MR. HEALEY: I don't remember
 (25) seeing.

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(1) *Stepski*
 (2) Q: Contact reported --
 (3) MR. HEALEY: This Coast Guard
 (4) report, what we are looking at, right,
 (5) that's what you are limiting it to.
 (6) To save you the trouble, I
 (7) will stipulate because the Coast Guard
 (8) did not make such a notation in that
 (9) report.
 (10) Q: But you contend though, Mr. Stepski,
 (11) that you told the Coast Guard that you saw the
 (12) contact vessel make a course change?
 (13) A: Excuse me?
 (14) Q: You continue to maintain that you
 (15) told the Coast Guard at the time of your
 (16) interviews that you saw the radar contact in your
 (17) radar make a course change?
 (18) You told them that?
 (19) A: Yes.
 (20) Q: By the way, how many times were you
 (21) interviewed by the Coast Guard?
 (22) A: Two for sure and maybe one more
 (23) time. I think it was just the once in Cape Cod
 (24) and one in New London.
 (25) Q: Did you tell them at the Cape Cod

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Stepski

- (1) base that you saw this target make a turn?
- (2) A: I don't know if I told them that. I
- (3) didn't really get that into detail at that base so
- (4) much as we did at the next meeting.
- (5) Q: Did you tell them in New London that
- (6) you saw the target vessel making a course change?
- (7) A: Yes.
- (8) MR. SINGLETON: Would you mark
- (9) that, please, as the next exhibit?
- (10) (Handwritten document dated
- (11) 5/22/04 was marked as Exhibit No. 10
- (12) for identification, as of this date.)
- (13) BY MR. SINGLETON:
- (14) Q: Now, the Coast Guard conversation
- (15) record that we marked as Exhibit 9 that you have
- (16) in front of you has a time recorded on it for the
- (17) interview of 1900 hours, May 22, 2004.
- (18) I now put before you handwritten
- (19) notes marked as Exhibit 10.
- (20) My first question is do you
- (21) recognize the handwriting?
- (22) A: (Perusing document.) Yes.
- (23) Q: Is this yours?
- (24) A: Yes.

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Stepski

- (1) Q: When did you prepare this document?
- (2) A: This was at the Coast Guard station.
- (3) Q: There seems to be a fax or some time
- (4) stamp on the top May 22, 041119P.
- (5) Do you know how that stamp got on
- (6) the document?
- (7) A: No.
- (8) Q: Did you sit down and write it out at
- (9) the Coast Guard station?
- (10) A: Yes.
- (11) Q: This was the Coast Guard station
- (12) Cape Cod?
- (13) A: Yes.
- (14) Q: You sat down and wrote this document
- (15) out yourself?
- (16) A: Yes.
- (17) Q: Did you do this at someone's
- (18) request?
- (19) A: Yes.
- (20) Q: Whose request?
- (21) A: One of the Coast Guard guys.
- (22) Q: Did you write this document before
- (23) or after you were interviewed by the Coast Guard
- (24) guys in Cape Cod?

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Stepski

- (1) A: I think it was before.
- (2) Q: Let's go to the first sentence.
- (3) "As owner and captain of the AVA
- (4) CLAIRE, I was engaged in hauling gill nets at
- (5) position 147000 43600."
- (6) Is that the end of your first
- (7) sentence there?
- (8) A: It's not capital, the next word, so
- (9) I'm guessing it's a comma.
- (10) Q: You say at around 11:00 o'clock a.m,
- (11) this is your writing, this is the time you came up
- (12) with; is that right?
- (13) A: Yes.
- (14) Q: Next sentence, "I was watching a
- (15) target on the radar."
- (16) Is that the end of that sentence or
- (17) does it continue as it got closer?
- (18) A: Looks like the end of the sentence.
- (19) Q: Is that a capital A for the next?
- (20) A: Yes.
- (21) Q: So does this mean at around 11:00
- (22) o'clock while you were hauling your gill nets you
- (23) were watching a target on the radar?
- (24) A: If that's the right time.

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Stepski

- (1) Q: But that was your intention when you
- (2) wrote this, to convey the thought I just
- (3) expressed; is that right?
- (4) A: I guess that's about it.
- (5) Q: What you meant to say, at 11:00
- (6) o'clock, while hauling my gill nets, I saw a
- (7) target on the radar; that's the thought you
- (8) intended to express, right?
- (9) A: At around 11:00 o'clock.
- (10) Q: At around 11:00 o'clock, but that's
- (11) the thought you intended to express; is that
- (12) right?
- (13) A: Yes.
- (14) Q: Your next sentence says, "As it got
- (15) closer," I take it you mean the target, correct,
- (16) "it seemed to slow down."
- (17) You didn't tell me anything about
- (18) this earlier today.
- (19) Did you observe the target slowing
- (20) down?
- (21) A: I don't think I did.
- (22) You have got to understand I had
- (23) just got pulled over there with a helicopter and
- (24) dropped off. I was still shaking at the time I

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[1] **Stepski**
[2] was writing this.
[3] I think the slow down part is
[4] probably the turning point, when I said it was
[5] turning. That's why I'm assuming when I wrote
[6] this —
[7] Q: You wrote the words slow down. Now
[8] you are telling me what you meant to say was turn?
[9] MR. HEALEY: I object to the
[10] form.
[11] Put it in context, he was just
[12] pulled out three hours —
[13] MR. SINGLETON: You said you
[14] wouldn't make a speech.
[15] MR. HEALEY: The question
[16] wasn't clear.
[17] MR. SINGLETON: I would like
[18] the record to reflect that I have
[19] asked Mr. Healey to not raise talking
[20] objections and I have invited him any
[21] time he has a problem with my
[22] questions, I would be happy to go
[23] outside.
[24] I would appreciate you not
[25] making talking objections.

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[1] **Stepski**
[2] MR. HEALEY: You got my remark
[3] about being spurred by an unfair
[4] negative, didn't you?
[5] BY MR. SINGLETON:
[6] Q: Whether you were upset or not, my
[7] only question is you wrote slow down. But what
[8] you are telling us now, what really happened was
[9] the vessel turned; is that right?
[10] A: Yes.
[11] Q: Next sentence, I think I'm reading
[12] this right. "We readied a knife"; is that right?
[13] A: Yes.
[14] Q: "And untied," is that it?
[15] A: Yes.
[16] Q: "Our gill net bridle in case we had
[17] to flee."
[18] So now you wrote this, I'm going to
[19] ask you again.
[20] Does this help refresh your memory
[21] about whether the bridles were untied or not at
[22] the time the collision occurred?
[23] A: I don't believe the guys ever got
[24] them untied. I think they were looking for them
[25] to untie them, but I think before they even found

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[1] **Stepski**
[2] the bridles I yelled at them to cut them. And
[3] then it was over.
[4] Q: Your statement is a little bit
[5] incorrect or inaccurate.
[6] A: You have to ask the guys, because I
[7] wasn't there watching. I know I yelled at them to
[8] untie them and then I yelled at them to cut them.
[9] I would have to say they didn't have
[10] enough time. It takes a while to find them, you
[11] have a 300-foot net, you have to find the end of
[12] them.
[13] Q: You next say "about that time."
[14] Now, by that time, I'm not sure what you mean by
[15] "about that time."
[16] Can you tell me what you are
[17] referring to by "about that time"?
[18] A: Basically when I yelled at them to
[19] cut them, right after that the thing come through
[20] the fog. So at that time.
[21] Q: Then it says you "saw through the
[22] thick fog a container ship bearing down on us very
[23] fast. I ran into the wheelhouse."
[24] Was your recollection at the time
[25] that you saw the container ship from on deck at

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[1] **Stepski**
[2] your station by the hauler and then after you saw
[3] it, you ran into the wheelhouse very fast?
[4] A: No. I had come out of the
[5] wheelhouse to tell them to cut the nets. That's
[6] when I saw it. I ran back in to give it throttle.
[7] Q: You came out of the wheelhouse to
[8] tell them to cut the nets?
[9] A: Yes.
[10] Q: Could they hear you if you just
[11] yelled out the door?
[12] A: Probably.
[13] Q: Why did you come out of the
[14] wheelhouse if you see a ship on your radar target
[15] apparently, according to your testimony, you are
[16] very concerned now you are going to be run down,
[17] yet you went out of the wheelhouse to tell them to
[18] cut the nets?
[19] A: Yes. Wait, wait. Let me think
[20] about that for a second.
[21] I went in, then I saw it coming
[22] through the fog while I was out on deck, so I ran
[23] back in to give it throttle.
[24] MR. SINGLETON: Would you mark
[25] this as the next exhibit.

(1) **Stepski**

(2) (Summary was marked as Exhibit
(3) No. 11 for identification, as of this
(4) date.)

(5) **BY MR. SINGLETON:**

(6) **Q:** Let me show you what we have now
(7) marked as Exhibit 11 as part of the Coast Guard
(8) report. Just leaf through it, generally tell me
(9) if you have seen it before?

(10) **A:** (Perusing document.) Yes.

(11) **Q:** Now, this document here, under
(12) findings of fact, purports to be what the United
(13) States Coast Guard conclude were its findings of
(14) fact based upon its collection of evidence, its
(15) interview with, it lists you, Ben Schober, Geal
(16) Roderick and other information and evidence it
(17) collected.

(18) I don't see anything in here that
(19) could even remotely be construed to be a finding
(20) of fact that the NORASIA, that your people on your
(21) vessel observed the NORASIA or observed the target
(22) turn shortly before the collision occurred.

(23) Now, are you absolutely certain you
(24) told that to the Coast Guard?

(25) **MR. HEALEY:** So far as you

(1) **Stepski**

(2) recall, reading this document.

(3) Objection to the entire line
(4) of questioning.

(5) **MR. SINGLETON:** What is the
(6) objection?

(7) **MR. HEALEY:** I say insofar as
(8) you are incorporating, referring to
(9) this document, what is the number, I
(10) don't know.

(11) **MR. WEIGEL:** Exhibit 11.

(12) **MR. HEALEY:** I have an
(13) objection to the entire line of
(14) questioning.

(15) **MR. SINGLETON:** I don't think
(16) you would —

(17) **MR. HEALEY:** Well, maybe you
(18) and I know different things about the
(19) law.

(20) **MR. SINGLETON:** But it doesn't
(21) contain anything.

(22) **BY MR. SINGLETON:**

(23) **Q:** But it doesn't contain anything in
(24) here at all about your term, does it?

(25) **A:** I don't know if it does, but I know

(1) **Stepski**

(2) I told Bloom.

(3) **MR. HEALEY:** You don't know if
(4) it does.

(5) We will take the next
(6) question.

(7) **MR. SINGLETON:** We are going
(8) to take a quick break.

(9) (Discussion off the record.)

(10) **MR. SINGLETON:** Back on the
(11) record.

(12) **Q:** Exhibit 9 says the Coast Guard
(13) reports that you said that you had been gill
(14) netting in approximately Loran-C position 43605
(15) 14760?

(16) **MR. HEALEY:** I have the same
(17) objection for use of the Coast Guard
(18) document.

(19) I object to the questions,
(20) unless you want me to say it each
(21) time, I have an objection to the
(22) entire line when referring to this
(23) document.

(24) **MR. SINGLETON:** You are
(25) objecting?

(1) **Stepski**

(2) **MR. HEALEY:** Yes.

(3) **BY MR. SINGLETON:**

(4) **Q:** Did you find that on the chart?

(5) **A:** The 14760? Where is the other one?

(6) **Q:** 43605?

(7) **A:** No. That's my documentation number.

(8) **Q:** These two?

(9) **A:** 14760.

(10) 43605.

(11) **Q:** Draw a line or some kind of circle
(12) we will be able to see in the future.

(13) **A:** (Witness complies.)

(14) **Q:** I'm just going to make it a little
(15) bigger.

(16) I am going to label that one we just
(17) discussed as — why don't you label it A, position

(18) **A:** I would be writing upside down.

(19) **A:** Okay.

(20) **Q:** In your statement, Exhibit 10, you
(21) state that you were hauling gill nets at position
(22) 14700, 43600.

(23) Can you plot that for us?

(24) **A:** (Witness complies.)

(25) **Q:** I will put a circle around that.

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(1) **Stepsiki**
(2) Which one of these is the correct
(3) position?
(4) A: Neither actually.
(5) Q: Neither?
(6) MR. HEALEY: Neither. That's
(7) the answer.
(8) Q: What was the correct position?
(9) Where were you hauling your gill nets?
(10) A: We were setting right up in this
(11) trench here. I believe I started setting around,
(12) right around this area, 615, 43615, probably about
(13) right here. 14650.
(14) MR. STEVENS: Make a mark.
(15) MR. HEALEY: Do you want him
(16) to make a mark?
(17) MR. SINGLETON: Yes.
(18) A: I would say right in this area.
(19) MR. SINGLETON: I will circle
(20) that one here.
(21) Q: Would you put a B next to the second
(22) one you did and C next to the third one?
(23) BY MR. SINGLETON:
(24) Q: Just so the record is straight, this
(25) is the position taken from your handwritten

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(1) **Stepsiki**
(2) statement marked Exhibit 10.
(3) A is from the Coast Guard
(4) conversation report marked Exhibit 9. And C is
(5) now what you say is the correct position?
(6) A: Yes.
(7) Q: How do you know that's the correct
(8) position?
(9) A: Because I remember where I set them.
(10) Q: Did you remember where you set them
(11) when you talked to the Coast Guard?
(12) A: Yes, but not the exact numbers. I
(13) just remembered basic area on the chart.
(14) Q: Did you remember when you were being
(15) interviewed by the Coast Guard at Cape Cod? I
(16) thought you said there was a chart right there?
(17) A: Yes.
(18) Q: But it appears you still gave the
(19) Coast Guard on Exhibit 9 the Loran-C coordinates
(20) which were put on Exhibit A?
(21) A: We previously —
(22) MR. HEALEY: He didn't ask a
(23) question, he made a statement.
(24) Listen.
(25) Q: Do you believe then that you gave

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(1) **Stepsiki**
(2) the Coast Guard a position other than is reported
(3) here in Exhibit 9?
(4) A: I have a hard time believing I gave
(5) them that position.
(6) Q: Look at the exhibit, this is your
(7) own handwriting.
(8) Are you saying the position you put
(9) down in your own handwriting right after the time
(10) is incorrect?
(11) A: That in my head, I remember it
(12) around 760. I don't remember the exact numbers
(13) after the 760. I remember 760.
(14) Off the top of my head, I couldn't
(15) remember exactly where we were. I had it all
(16) written down on charts, the logs in the boat. I
(17) go to the exact —
(18) MR. HEALEY: You gave an
(19) answer. Don't try to sell him. Give
(20) the answer.
(21) Q: Which way were your nets running
(22) here on position C?
(23) A: That was the far west. They went
(24) east from there.
(25) Q: They went east from there?

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(1) **Stepsiki**
(2) A: Yes.
(3) Q: They ran for how many feet?
(4) MR. HEALEY: Three times,
(5) times to —
(6) Q: So 1.5 miles, something like that?
(7) MR. HEALEY: Yes.
(8) Q: So this was the westerly end, did
(9) you say, or the easterly end?
(10) A: That would be the westerly end,
(11) across this area.
(12) Q: Go ahead, draw this line.
(13) You said we were fishing in this
(14) gully here, just draw a line.
(15) A: As I said, they were a little
(16) staggered, but roughly, the nets were running
(17) across like that.
(18) Q: Let me make a stronger line.
(19) A: That's all seven strings.
(20) Q: Tell me when to stop. I'm going to
(21) overlap your line.
(22) Stop here?
(23) MR. HEALEY: That's the
(24) direction.
(25) Q: That's the direction. We can

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(1) *Stepski*
 (2) calculate from this point how far 1.6 miles is.
 (3) In fact, we have gone way beyond that already
 (4) 1.5 miles?
 (5) A: I was up a little more on this bank.
 (6) Q: So that's 1.5 miles right there?
 (7) MR. HEALEY: Okay. It's about
 (8) half the line. We don't have to make
 (9) it exact. There is the line, it's
 (10) more than a mile.
 (11) Q: So whatever 1.5 miles is from this
 (12) dot marked as C?
 (13) MR. HEALEY: You can figure
 (14) out exactly at some point if you want.
 (15) You have 600 feet. You could figure
 (16) that out.
 (17) You spent four years at
 (18) Annapolis to learn to do that stuff.
 (19) I thought you would be able to snap
 (20) that out right here.
 (21) MR. WEIGEL: I'm not
 (22) testifying, unlike you.
 (23) Q: I want you to assume that the Coast
 (24) Guard indicated in another document that the nets
 (25) were placed along three Loran lines, 43610, 43608,

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(1) *Stepski*
 (2) 42606.
 (3) Let's mark that first.
 (4) MR. HEALEY: Are you referring
 (5) to a document?
 (6) MR. SINGLETON: This is my
 (7) notes.
 (8) MR. HEALEY: Are you referring
 (9) to a document?
 (10) MR. SINGLETON: I am asking
 (11) him to assume something right now.
 (12) MR. HEALEY: I am asking you,
 (13) you said assume the Coast Guard
 (14) document. I asked refer me to the
 (15) document.
 (16) MR. SINGLETON: I actually am
 (17) trying to ask the following question.
 (18) Q: Assume that the Coast Guard has
 (19) reported that your nets were placed along three
 (20) lines, one of which is 43610.
 (21) Can you find that for me?
 (22) MR. HEALEY: Objection.
 (23) Q: Just a little bit to the south of
 (24) where your C line is?
 (25) A: Yes.

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(1) *Stepski*
 (2) Q: Do you think that position is more
 (3) accurate than the C position?
 (4) A: I don't think so.
 (5) MR. HEALEY: Sit down and
 (6) don't make a speech.
 (7) Q: How long had you been fishing in
 (8) that area, the area around position C on the
 (9) chart?
 (10) MR. HEALEY: Clarify. This
 (11) day or in his life?
 (12) MR. SINGLETON: In his life is
 (13) a better way of putting it.
 (14) A: That was my second spring with the
 (15) boat, so it would have to be my second year.
 (16) Q: Where did you fish prior to that?
 (17) Did you have an area that you preferred?
 (18) A: Prior to that, what do you mean?
 (19) You fish all over the place.
 (20) Q: Well, your fishing trip reports
 (21) indicate another location, at least some of them,
 (22) the official fishing trip reports from 2003.
 (23) So where did you fish for monkfish
 (24) in 2003?
 (25) A: The year before? This spring I know

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(1) *Stepski*
 (2) we ended up in this area.
 (3) Q: In the Block Channel area?
 (4) A: Yes.
 (5) And I don't remember if I came
 (6) further than that that year.
 (7) Q: Why did you switch? Why did you
 (8) change?
 (9) A: Because earlier in the season
 (10) fishing is better the further you go out.
 (11) Q: Did it concern you at all that you
 (12) were fishing in heavy fog in the area of
 (13) commercial vessel traffic?
 (14) A: Concern me?
 (15) Q: Yes.
 (16) A: Of course. I'm always concerned
 (17) when I'm out there, whether it's foggy or not.
 (18) But it as far as foggy, I guess, you don't go back
 (19) because of fog.
 (20) Q: Right. That may or may not be true.
 (21) A: It's absolutely true.
 (22) Q: Certainly fishing in the area of a
 (23) vessel traffic separation scheme in one of the
 (24) major approaches to New York Harbor, you would be
 (25) worried about the possibility of encountering a

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(1) **Stepski**
(2) large, fast-moving vessel?
(3) **A:** Not when I purposely set them north
(4) of the lane. I usually stay in the lane most of
(5) these trips when I go out.
(6) **Q:** Your answer is no?
(7) **MR. HEALEY:** That's not his
(8) answer. You have his answer.
(9) I object to the form of the
(10) question. Ask a question, don't
(11) rephrase what he said.
(12) **Q:** Were you concerned that you were in
(13) close proximity to a commercial shipping lane in
(14) the fog?
(15) **A:** Was I concerned?
(16) **Q:** Yes.
(17) **A:** Concerned?
(18) **Q:** Did you believe it was more
(19) dangerous to fish there than someplace further
(20) away from a commercial traffic lane?
(21) It's a different question, but I
(22) will stick to that one.
(23) **A:** I was thoroughly aware of the ship
(24) traffic, because I always see it. So, concerned?
(25) Does that answer the question?

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(1) **Stepski**
(2) **Q:** You said you were thoroughly aware
(3) of it.
(4) But my question is do you believe as
(5) a commercial fisherman understanding vessels that
(6) it's riskier to fish in close proximity to a
(7) traffic separation scheme than it is to fish away
(8) from it?
(9) **MR. HEALEY:** Objection.
(10) **A:** Well, I would say it's probably
(11) riskier the closer you get, especially if you get
(12) into it.
(13) **Q:** Did you take any special precautions
(14) on May 22nd before engaging in fishing in the area
(15) that you did in the fog that you encountered?
(16) **A:** Yes, yes. I made sure the boat is
(17) fully equipped with all the safety equipment,
(18) everything is working, in good order. I
(19) constantly check the engine room, make sure
(20) everything is operating properly. Survival suits,
(21) life jackets, all that.
(22) **Q:** But outside of that, did you do
(23) anything differently than you ordinarily do things
(24) because you were fishing in fog close to a
(25) commercial vessel traffic separation scheme?

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(1) **Stepski**
(2) **A:** Yes. Keep a close, steady watch on
(3) the radar. Listen to, make sure the radio is boat
(4) channel 16 and 13. Spend more time watching the
(5) radar and doing that kind of stuff than I do
(6) actually working.
(7) **Q:** If that's the case, what I am
(8) curious about is even though you thought that the
(9) target you were observing might pass, according to
(10) your testimony, and it would pass, and you would
(11) not be in collision with it, why is it that you
(12) didn't stay for that 15 or 20 minutes, whatever it
(13) might be, just carefully observe it to make sure
(14) that you weren't going to be put in danger?
(15) **MR. HEALEY:** Objection.
(16) **A:** I did. I watched that sucker steady
(17) as soon as I first saw it on the screen.
(18) **Q:** Amongst doing other things, is that
(19) fair?
(20) **A:** Still running a boat. I have to
(21) continue running the boat.
(22) I'm not going to freeze every time I
(23) see something on the radar, although since then I
(24) kind of do. I have to keep, I always see the
(25) target on the radar, you have to watch, make sure

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(1) **Stepski**
(2) you are not on a collision course. There's a lot
(3) of traffic out there.
(4) **Q:** Did Roderick and Schober have
(5) assigned duties?
(6) **A:** Assigned duties.
(7) I explained. Geal had been fishing
(8) with me for quite a while by then. He knew all
(9) the jobs that came up. I explained what needed to
(10) be done, I went over it with him before we even
(11) went fishing.
(12) **Q:** Would you trust Schober with
(13) navigating your boat?
(14) **A:** Navigating, yes. It's — well, yes,
(15) I would give him a wheel watch. You just got to
(16) tell certain people as soon as you see a target,
(17) to wake me up, or if you hear something on the
(18) radio, wake me up.
(19) But I think I could trust him.
(20) **Q:** How about Geal?
(21) **A:** Absolutely. He has been fishing his
(22) whole life.
(23) **Q:** Could he read a radar?
(24) **A:** Yes.
(25) **Q:** He understands what he is looking at

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Stepski

[1] when he looks at the radar?
[2] A: Yes.
[3] Q: Let me ask you this.
[4] Did you give any thought to having
[5] Geal stand in the wheelhouse and observe this
[6] situation to make sure it didn't develop into a
[7] dangerous situation while you continued to work
[8] the fishing part of the boat?
[9] A: No. I prefer to watch myself.
[10] Q: Why didn't you do that then, you
[11] just watch that, don't do anything else, you watch
[12] the radar?
[13] A: Well, I did do that. I also did a
[14] little work, too.
[15] Q: My question is why didn't you just
[16] do that and let the other guys do the work?
[17] MR. HEALEY: Wait a minute.
[18] I object to the form.
[19] Q: The lines or — I will state it
[20] again.
[21] Why didn't you assign Roderick and
[22] Schober the job of dealing with the hauler,
[23] dealing with the fish, and you stay in the
[24] wheelhouse to monitor this target and assess the

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Stepski

[1] risk of collision continually, do nothing else but
[2] do that?
[3] A: Because I had determined that we
[4] weren't on a collision course. I was sure of it.
[5] Q: But stuff happens, vessels turn?
[6] MR. HEALEY: That's a comment
[7] which he should not make.
[8] You answered, so we stop
[9] there.
[10] Q: You are aware, are you not, that
[11] sometimes vessels do erratic things?
[12] A: Yes.
[13] Q: And would you agree with me that at
[14] least in hindsight it would have been prudent to
[15] have somebody stay right in that wheelhouse
[16] watching that radar screen, do nothing but watch
[17] that?
[18] A: I was watching that radar screen
[19] steadily, even though I may have went on the
[20] hauler a couple of times, I never took my eyes off
[21] it.
[22] Q: What you are suggesting to me is
[23] that you watched it carefully enough that you saw
[24] that ship, which you have described as a big ship,

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Stepski

[1] start to turn; is that right?
[2] A: I saw that he had changed course.
[3] Q: Yes. But I think we have been down
[4] this one already. I want to make sure you are
[5] still giving the same testimony you gave before.
[6] You actually watched the radar blips
[7] starting to alter.
[8] MR. HEALEY: Objection.
[9] Asked and answered.
[10] MR. SINGLETON: It was until
[11] he just made the statement he did.
[12] A: I made a statement.
[13] Q: There are two ways — let's go back
[14] to what you said. This is important. It's
[15] obviously been asked and I thought it was
[16] answered, know the answer may have been changed, I
[17] don't know. I want to find out.
[18] Here is the question.
[19] Did you actually see the target
[20] vessel go on the radar screen from a straight
[21] bearing and you see that bearing start to change
[22] or did you watch it or did you look up at the
[23] radar screen, see that it had already changed, it
[24] was now heading for you?

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Stepski

[1] A: No. I was watching it so steady
[2] that I could tell right away that it was headed
[3] for us.
[4] Q: You said started to change; is that
[5] right?
[6] A: Yes.
[7] Q: When you saw it start to change, is
[8] that when you immediately said, okay, release the
[9] nets?
[10] A: I said untie the nets and ran back
[11] into the wheelhouse, still watching and I saw it's
[12] changed. I yelled down, I said cut the nets.
[13] Yelled out.
[14] Q: I suppose when you saw it just start
[15] to change, why didn't you do something with your
[16] vessels then, some maneuver to try and get out of
[17] the way or to go the other way or to turn the
[18] opposite direction?
[19] A: I didn't want to get the vessel
[20] involved in the net, get the net down so we can
[21] move.
[22] Q: If I understood you before, there
[23] was a possibility you could get the net in the
[24] wheel, but it was not a certainty; is that true?

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(1) **Stepski**
(2) **A:** Yes.
(3) **Q:** It seems to me that you may have had
(4) choices, you either do what you can to get out of
(5) the way of a target bearing down on you or run the
(6) risk of fouling the propeller with the net?
(7) **MR. HEALEY:** That's not a
(8) question. He is telling you what he
(9) thinks.
(10) He might be interested, I'm
(11) not.
(12) **MR. SINGLETON:** Are you making
(13) a comment?
(14) **MR. HEALEY:** I don't make
(15) them, except I want them recorded.
(16) **Q:** Anyway, what you are telling me is
(17) you still made the choice to try to release the
(18) nets even though you knew the vessel was bearing
(19) down on you?
(20) **A:** Yes.
(21) **Q:** Rather than try to take steps to get
(22) out of the way immediately and run a risk of
(23) fouling the propeller, is that true?
(24) **MR. HEALEY:** Objection to the
(25) form.

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(1) **Stepski**
(2) **A:** Yes. If I got the net caught in the
(3) wheel, we would have really been screwed.
(4) **Q:** You would really be screwed being
(5) cut in half by the boat.
(6) **A:** Not being able to move. I didn't
(7) know what it was.
(8) **MR. HEALEY:** Just answer the
(9) question.
(10) **Q:** Where were you actually physically
(11) standing when the collision occurred?
(12) **A:** Just outside the wheelhouse door.
(13) **Q:** And where was your crew standing,
(14) Geal and Ben?
(15) **A:** Geal was at the hauler and Ben was,
(16) he was either right at the table or in the back
(17) pen.
(18) **Q:** Did you watch as this other ship
(19) actually struck your vessel?
(20) **A:** Yes.
(21) **Q:** Where did the impact occur?
(22) **A:** Just ahead of the hauler on the
(23) starboard side.
(24) **Q:** Just ahead of the hauler on the
(25) starboard side.

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(1) **Stepski**
(2) Step back for a second. The entire
(3) time that you were watching this target when you
(4) were taking in string No. 2, when you were hauling
(5) string No. 2, you were watching the target, you
(6) were making forward progress, weren't you, you
(7) were proceeding along the string?
(8) **A:** Yes. Very slowly.
(9) **Q:** More or less in the direction that
(10) you have indicated on the chart at position C?
(11) **A:** Yes, almost —
(12) **MR. HEALEY:** That's it.
(13) **Q:** And when the impact occurred, what
(14) happened?
(15) **A:** We were split in two.
(16) I thought we were going to be rolled
(17) right off and finished off like that. But it was
(18) a clean cut, it just pushed the boat aside. And
(19) we started sinking as the ship was going by, we
(20) were yelling up to them for help.
(21) The other side of the front, forward
(22) part of my boat was on the other side of the ship.
(23) Come right through.
(24) And as we were sinking, we were
(25) yelling up to them for help.

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(1) **Stepski**
(2) By the time the ship had just passed
(3) us, our boat went under. We jumped off into the
(4) water and then a little bit later the life raft
(5) popped up. And we all started to climb in the
(6) life raft and we were watching the boat as it was
(7) going below the surface of the water, air bubbles
(8) were coming up, all the ropes that were pulling in
(9) the water away from the life raft so we wouldn't
(10) get snagged and sunk, be sucked down with the
(11) boat.
(12) As she started to go down me and
(13) Geal was in the raft at the time, Ben was still
(14) hanging on the side. It started to pull the raft
(15) down a little bit, we were still attached to the
(16) boat. Me and Geal walked to the other side of the
(17) craft, thought we were going to get pulled down
(18) with it, it snapped, let go, the raft popped back
(19) up.
(20) And then I noticed my dog was
(21) struggling swimming in the water behind us. I
(22) wanted to get Ben in the raft and go for him. By
(23) the time I got Ben, the dog was floating dead.
(24) And then —
(25) **MR. HEALEY:** You have answered

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[1] Stepski
[2] the question. Let him ask you another
[3] question.
[4] Q: So after you got Ben in the raft,
[5] what did you guys do then?
[6] A: We kind of sat there stunned for a
[7] little bit and assured each other we were all
[8] right.
[9] We noticed the bow still floating
[10] upside down a little ways off in the distance. We
[11] propelled over to it, sat there for a while
[12] noticing it was sinking upside down and I knew my
[13] survival suits were in the forward section.
[14] I wasn't sure how long we were going
[15] to be out there and was really concerned about
[16] hypothermia and concerned about being in a rubber
[17] raft that just a pinhole could pop out in the
[18] middle of the ocean.
[19] I decided to swim down underneath
[20] the boat, through the escape hatch, it was open,
[21] reached up there and grabbed the survival suits
[22] one at a time, brought them up to the raft, put
[23] those on. We were all shivering by then. It was
[24] freezing.
[25] We started paddling around looking

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[1] Stepski
[2] for anything that we could use to help survive if
[3] we were going to be stuck out there a long time.
[4] The EPIRB had gone off. We paddled around, we
[5] were picking up anything we could find, a bottle
[6] of ketchup, mustard, anything floating that might
[7] be useful.
[8] And then we came across my dog and I
[9] pulled him into the raft and I broke down for a
[10] while.
[11] Then we continued to look for
[12] anything we could find, anything, debris. It was
[13] a pretty big debris field. We found a flare.
[14] One of the guys threw it over
[15] thinking it was no good, it's all crushed, but I
[16] grabbed it again, wanted to hang onto that just in
[17] case.
[18] I found the EPIRB. It was, the
[19] antenna broke off, but it was still flashing. We
[20] were hanging on to that hoping it would give us a
[21] signal, holding it overhead hoping that might
[22] help. We kept looking around for stuff, kind of
[23] wanted to break at times.
[24] I wanted to find anything we could
[25] while we were still there and while the debris was

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[1] Stepski
[2] still there.
[3] Q: What was the condition of the EPIRB
[4] when you found it?
[5] A: The antenna was broken off it, but
[6] it was flashing. I gauged it manually.
[7] Q: You say flashing, was there a strobe
[8] on it?
[9] A: Yes.
[10] Q: Were there any other lights lit on
[11] the EPIRB besides the strobe?
[12] A: I didn't see any lights.
[13] Q: But was it floating free or was it
[14] still connected to its bracket?
[15] A: It was floating free.
[16] Q: Was there any wind at that time?
[17] A: No. Very lightly.
[18] Q: Was there any current?
[19] A: I think I remember there being
[20] current. I don't remember how much though.
[21] Q: Is there a reason why you put your
[22] nets from east to west and not north to south and
[23] just happened to be the way you did?
[24] A: In this particular area they catch
[25] better that way.

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[1] Stepski
[2] Q: You don't know what the speed of the
[3] current was at the time, do you?
[4] A: No.
[5] Q: Did you and did the life raft and
[6] what was left, the bow and the debris field, move
[7] at about the same speed?
[8] In other words, did you stay
[9] together?
[10] A: No. We ended up losing the bow
[11] after a while.
[12] Q: Losing sight of it?
[13] A: Yes. The debris field was so large
[14] we were paddling around and the fog was so thick,
[15] we could lose sight of things.
[16] I don't remember ever seeing the bow
[17] section again after we got the survival suits out.
[18] Q: You kept saying, at the time, 11:00
[19] o'clock, that you had written in your statement.
[20] Do you remember seeing that in your
[21] handwritten statement? I will show it to you if
[22] you need to see it.
[23] That was, you said that was the
[24] approximate time.
[25] But can you give me plus or minus of

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[1] *Stepsiki*
[2] the approximation of the time?
[3] A: We went over the times earlier.
[4] If we left at 4:38 a.m., usually it
[5] took me about six hours to get in this spot. If
[6] we were bucking the tide, it could have slowed us
[7] down. If we were going with it, it could have
[8] sped us up.
[9] That's how I am guessing about that
[10] time. You are talking hours. All I know is the
[11] time we left the dock. I don't know any time
[12] after that. I'm just guessing.
[13] Q: You say 11:00 o'clock, but is that,
[14] do you think that's a good figure, plus or minus
[15] 30 minutes?
[16] MR. HEALEY: Objection.
[17] A: I don't know, because didn't we come
[18] up with a later time when we just went over it?
[19] Q: You wrote the time. All I know is
[20] you wrote 11:00 o'clock down the same day of the
[21] event.
[22] And I'm just asking you with
[23] reference to that, do you believe that's a good
[24] time, plus or minus some other facts?
[25] A: I want to go over this again with

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[1] *Stepsiki*
[2] you before I come up with those figures.
[3] Q: If you are just going to calculate
[4] it, we already did that. I don't want to do that
[5] again.
[6] Since you wrote that right after it
[7] occurred, as you have already said —
[8] A: That was a guess after it occurred,
[9] that was just a guess. Probably about the right
[10] time.
[11] Just figuring, six hours out, 4:30.
[12] Probably later than 11, I would think, if it's six
[13] hours. Seven, eight, nine, ten, that's 10:30, if
[14] it took us six just to get there. So 10:30. Haul
[15] one, haul one, set it back, started hauling the
[16] next one.
[17] MR. HEALEY: You have answered
[18] it.
[19] Q: Was Schober drinking any beer before
[20] the collision?
[21] A: No.
[22] Q: You are sure?
[23] A: Yes.
[24] Q: How can you be sure?
[25] A: All I can say is I never saw him

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[1] *Stepsiki*
[2] drinking any.
[3] Q: Who brought the beer on board?
[4] A: He did.
[5] Q: And he brought it on board for what?
[6] A: After the trip, I assume.
[7] Q: To drink it after the trip?
[8] A: Yes.
[9] Q: How much beer did you bring board?
[10] MR. HEALEY: I object to the
[11] form, "did you bring."
[12] A: He said Schober brought it.
[13] Q: I said did Schober bring.
[14] MR. HEALEY: I misheard you.
[15] Excuse me.
[16] Q: Sorry if I misspoke. Let me ask the
[17] question again in case I did.
[18] How much beer did Schober bring on
[19] board?
[20] A: I don't remember.
[21] Some kind of a, I don't remember if
[22] it was a 12-pack or something like that, but it
[23] was a pack.
[24] Q: More than a six-pack?
[25] A: Yes.

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[1] *Stepsiki*
[2] Q: This was your second trip with him?
[3] A: Yes.
[4] Q: Did he bring some beer the first
[5] time to drink afterwards?
[6] A: I don't remember.
[7] Q: Is there any sort of a — near where
[8] you keep your boat, is there a local bar?
[9] You always see that in the movies, a
[10] bar where all the fishermen hang out.
[11] Is there a bar there?
[12] A: Yes, there is.
[13] Q: Did the crews go in to socialize in
[14] that bar after coming back from fishing?
[15] A: Sometimes, sure.
[16] Q: Have you ever seen Schober there?
[17] A: No.
[18] Q: What is the name of that particular
[19] bar?
[20] A: Well, I wouldn't say there's any
[21] particular ones. There's many bars in the town.
[22] Q: Did you know that Schober had
[23] completed an alcohol rehab program?
[24] A: No, I don't think I knew at the
[25] time. Since then I have known.

(1) *Stepski*
 (2) Q: Did Roderick bring any beer?
 (3) A: No.
 (4) Q: Did you bring any beer?
 (5) A: No.
 (6) Q: It was only Schober?
 (7) A: Yes.
 (8) Q: Then was there any beer consumed in
 (9) the life raft?
 (10) A: Yes. He had at least one. I saw
 (11) him drinking a beer in the life raft. I think
 (12) he — I know he had at least one in the life raft.
 (13) Q: Did any pretzels pop up, bag of
 (14) pretzels?
 (15) A: I don't know.
 (16) Q: How was Roderick compensated, how
 (17) did you pay him?
 (18) A: I gave him a percentage of the value
 (19) of the catch.
 (20) Q: What percentage was that?
 (21) A: I don't know what we obtained at the
 (22) time. I probably guess around 15 percent.
 (23) Q: How was Schober compensated?
 (24) A: Same thing as Roderick.
 (25) Q: He got a percentage of the catch?

(1) *Stepski*
 (2) A: A percentage of the value, yes.
 (3) Q: What was his percentage?
 (4) A: I don't know what it was for him. I
 (5) don't even think we got the first check by then,
 (6) so we hadn't paid him yet I don't think.
 (7) Q: But your agreement with him was he
 (8) would get some percentage of the catch, you just
 (9) can't remember what it was.
 (10) Is that written down anywhere?
 (11) A: No.
 (12) Q: Now, I understand at some point
 (13) you —
 (14) MR. SINGLETON: Do you have to
 (15) go?
 (16) MR. UNGER: Unfortunately, I
 (17) have to go.
 (18) As I understand it, we will
 (19) set a date for the completion.
 (20) MR. HEALEY: Right, for
 (21) Michael to come back.
 (22) MR. SINGLETON: For the fish
 (23) catch evidence, unless you want to go
 (24) through that now.
 (25) MR. HEALEY: No.

(1) *Stepski*
 (2) MR. WEIGEL: We don't have the
 (3) documents anyway.
 (4) MR. HEALEY: It's up to you.
 (5) MR. SINGLETON: I will explain
 (6) what I am going to do.
 (7) Off the record.
 (8) (Discussion off the record.)
 (9) MR. SINGLETON: Back on the
 (10) record.
 (11) BY MR. SINGLETON:
 (12) Q: We learned that apparently sometime
 (13) after this incident you went back out to the area
 (14) where this occurred and did some dragging to try
 (15) to find things.
 (16) Will you tell me, just generally
 (17) describe what it is you did.
 (18) A: We went back to the area that I
 (19) thought the wreck would be. I wanted to get the
 (20) net that I was hauling at the time because we
 (21) weren't finished hauling.
 (22) I know it stretched east of the
 (23) wreck, so we had a pretty good chance of catching
 (24) it if we towed north and south, grappled in the
 (25) area where I figured it was.

(1) *Stepski*
 (2) And I went right there and grappled
 (3) it in and by the third try we had the net and
 (4) started pulling it in. And a few pieces of the
 (5) boat came up with it, fishing pole, pieces of the
 (6) rail, side of the boat, cabin, other pieces, stuff
 (7) like that. I think you saw the pictures.
 (8) Q: When the collision occurred, you
 (9) still had the net, the No. 2 string and the hauler
 (10) and part of it on board on the boat, right on your
 (11) boat?
 (12) A: Yes.
 (13) Q: And so when your boat was sunk, then
 (14) what you lost was the buoy that was attached to
 (15) that one end of that string, the highflier, the
 (16) other buoy wasn't there either though.
 (17) How many other strings had you had
 (18) out that you had not brought in on May 22nd?
 (19) A: There was, I think I said seven in
 (20) the beginning, but I think it was probably at that
 (21) time six. I'm guessing.
 (22) Q: Were they still there?
 (23) A: Yes. This is a year later we did
 (24) grappling.
 (25) Q: But the buoys were still there?

MICHAEL STEPSKI
November 9, 2006

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[1] **Stepski**
[2] --A: No, the buoys weren't there.
[3] Q: Let's go back.
[4] When did you go out to drag for the
[5] net?
[6] A: A year later.
[7] Q: What happened to the fishing nets
[8] that had been deployed when the collision
[9] occurred?
[10] A: Oh, I went with my friend a couple
[11] of weeks later and got those.
[12] Q: Were they still there intact?
[13] A: Yes.
[14] Q: And it was one year later that you
[15] went. And you went out and, of course, there were
[16] no visible signs there, there were no buoy floats,
[17] you went with a what, GPS or Loran?
[18] A: All the high fliers were there. We
[19] went to retrieve the nets.
[20] Q: No. One year later to get the net
[21] that you lost, right?
[22] A: Yes. Just went about where I
[23] remember being.
[24] Q: Did you use a Loran position or GPS
[25] position to get to that spot?

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[1] **Stepski**
[2] A: With his boat I think we used Loran.
[3] Q: Do you remember what the coordinates
[4] were?
[5] A: No. I don't remember.
[6] Q: Who was this fellow you went with?
[7] A: Peter Eshenfelder.
[8] Q: Where does Mr. Eshenfelder live?
[9] A: Waterford.
[10] Q: Do you know the street?
[11] A: It's Great Neck Road.
[12] Q: Is he a friend of yours?
[13] A: Yes.
[14] Q: What is the name of his boat?
[15] A: SHARON E.
[16] Q: S-H-A-R-O-N E?
[17] A: Yes.
[18] Q: Did you have these coordinates in
[19] your head or did you have them on a piece of paper
[20] to give to him?
[21] A: No. I just remembered about where
[22] we were. His boat, we just went looking on a nice
[23] hot day.
[24] Q: When you were in the life raft,
[25] waiting to be rescued, did any other boats pass

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[1] **Stepski**
[2] by?
[3] A: We heard something, a boat at one
[4] point, but that was it.
[5] Q: So you heard something, a boat, at
[6] one point.
[7] Did it sound like it was a ship or
[8] small boat?
[9] A: I was terrified that it was another
[10] ship. I was expecting to see another ship come
[11] out of the fog and run us over again. I don't
[12] know what it was.
[13] Q: But you couldn't tell from the sound
[14] of it?
[15] A: No. It just sounded like a diesel
[16] engine. It was kind of faint, too.
[17] Q: Did you feel a wave or anything like
[18] that, a bow wave or a wake, anything like that?
[19] A: No.
[20] Q: About how long after the collision
[21] occurred did you hear this boat go by?
[22] A: I think I had already gotten the
[23] survival suits by then. I don't know how long.
[24] Q: Sorry to belabor the point. Was it
[25] closer to 15 minutes or closer to two hours?

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[1] **Stepski**
[2] A: I would say two hours. I don't know
[3] if it was two hours. I don't know how long it
[4] was.
[5] Q: Could it have been a half an hour
[6] after you were in the life raft that you heard
[7] this noise?
[8] A: I think it was more that. I think
[9] it was closer to the two hours.
[10] Q: Now, you know as a captain of your
[11] vessel you are responsible for the drug and
[12] alcohol testing of your crew, make sure that gets
[13] done; is that right?
[14] A: No.
[15] Q: Do you have copies of the drug and
[16] alcohol tests of your crew?
[17] A: Yes.
[18] After we got rescued, sure, we went
[19] right to the hospital.
[20] Q: You have copies of all these test
[21] results?
[22] A: Yes.
[23] MR. SINGLETON: And those
[24] haven't been produced in an unredacted
[25] form?

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[1] *Stepski*
[2] MR. HEALEY: Then I haven't
[3] got them either. The first time you
[4] mention it, on the list.
[5] MR. SINGLETON: Okay, good.
[6] Thank you.
[7] Off the record for a minute.
[8] (Discussion off the record.)
[9] MR. SINGLETON: Just a couple
[10] more.
[11] BY MR. SINGLETON:
[12] Q: When you were interviewed by the
[13] Coast Guard in New London, who was the
[14] interviewing officer?
[15] A: Bloom.
[16] Q: That was Bloom?
[17] A: Yes.
[18] Q: Now that we have talked about this a
[19] little, can you remember whether it was Bloom at
[20] Cape Cod?
[21] A: I think it might have been because I
[22] remember we had to wait a while for him to get
[23] there.
[24] Q: After the interview at New London,
[25] were you interviewed again by the Coast Guard?

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[1] *Stepski*
[2] A: I don't believe so. I think that
[3] was it.
[4] Q: Do you remember when the interview
[5] at New London was, how many days after the
[6] incident?
[7] A: I think it was more than a week, but
[8] I don't remember.
[9] Q: That's two interviews, and one
[10] written statement you made?
[11] A: I think that was it.
[12] MR. SINGLETON: We need to
[13] mark the chart as an exhibit.
[14] (Chart entitled Approaches to
[15] New York was marked as Exhibit No. 12
[16] for identification, as of this date.)
[17] MR. SINGLETON: I think we are
[18] finished for today.
[19] MR. HEALEY: Excellent.
[20] (Whereupon, at 5:25 o'clock
[21] p.m., the deposition was adjourned.)
[22]
[23]
[24]
[25]

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[1]
[2] CAPTION
[3]
[4] The Deposition of MICHAEL A. STEPSKI, taken in the
[5] matter, on the date, and at the time and place set
[6] out on the title page hereof.
[7]
[8]
[9] It was requested that the deposition be taken by
[10] the reporter and that same be reduced to
[11] typewritten form.
[12]
[13]
[14] The Deponent will read and sign the transcript
[15] of said deposition.
[16]
[17]
[18]
[19]
[20]
[21]
[22]
[23]
[24]
[25]

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[1]
[2] CERTIFICATE
[3]
[4] STATE OF _____:
[5] COUNTY/CITY OF _____:
[6]
[7] Before me, this day, personally appeared
[8] MICHAEL A. STEPSKI, who, being duly sworn, states
[9] that the foregoing transcript of his/her
[10] Deposition, taken in the matter, on the date, and
[11] at the time and place set out on the title page
[12] hereof, constitutes a true and accurate transcript
[13] of said deposition.
[14]
[15] MICHAEL A. STEPSKI
[16]
[17]
[18] SUBSCRIBED and SWORN to before me this _____
[19]
[20] day of _____, 2006, in the
[21] jurisdiction aforesaid.
[22]
[23]
[24] My Commission Expires _____ Notary Public
[25]

MICHAEL STEPSKI
November 9, 2006

STEPSKI v.
THE M/V NORASIA ALYA

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[1]
[2] DEPOSITION ERRATA SHEET
RE:
[3] FILE NO.
[4] CASE CAPTION: Stepski vs. NORASIA ALYA
[5] DEPONENT: MICHAEL A. STEPSKI
DEPOSITION DATE: November 9, 2006
[6]
To the Reporter:
[7] I have read the entire transcript of my Deposition
taken in the captioned matter or the same has been
[8] read to me. I request for the following changes
be entered upon the record for the reasons
[9] indicated.
I have signed my name to the Errata Sheet and the
[10] appropriate Certificate and authorize you to
attach both to the original transcript.
[11]
[12]
[13]
[14]
[15]
[16]
[17]
[18]
[19]
[20]
[21]
[22]
[23]
[24] SIGNATURE: _____ DATE: _____
[25] MICHAEL A. STEPSKI

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[4]
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[5] Page 30 - Line 13: Copy of boater's license
[6] Page 63 - Line 23: Operations manual for radar
[7] Page 88 - Line 23: Johnson's survey bill
[8] Page 96 - Line 20: Eugene's last name and address
[9] Page 105 - Line 23: Evidence of purchase from Mr. Frye
[10] Page 112 - Line 5: Copy of insurance policy
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[1]
[2] CERTIFICATE
[3] STATE OF NEW YORK)
[4]) ss.
[5] COUNTY OF NEW YORK)
[6] I, ANNETTE FORBES, a Certified
[7] Shorthand (Stenotype) Reporter and
[8] Notary Public of the State of New
[9] York, do hereby certify that the
[10] foregoing Deposition, of the witness,
[11] MICHAEL A. STEPSKI, taken at the time
[12] and place aforesaid, is a true and
[13] correct transcription of my shorthand
[14] notes.
[15] I further certify that I am
[16] neither counsel for nor related to any
[17] party to said action, nor in any wise
[18] interested in the result or outcome
[19] thereof.
[20] IN WITNESS WHEREOF, I have
[21] hereunto set my hand this 21st day of
[22] November, 2006.
[23]
[24] ANNETTE FORBES, CSR, RPR
[25]

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